



2022

# Tesuque Community Plan Draft 11.22.21



# Acknowledgements

## Community Members

Special thanks to the numerous community members who contributed valuable time, information and insight into the planning effort. This Plan is the product of everyone who participated.

## Planning Committee Members

The Tesuque Valley Community Association submitted a Letter of Intent to request authorization to establish the Tesuque Planning Committee and to request authorization to initiate a community planning process to update the 2013 Tesuque Community Plan and address specific conditions for consistency between the plan and the Tesuque Community District Overlay in the Sustainable Land Development Code (SLDC). The Santa Fe Board of County Commissioners established the Tesuque Planning Committee and authorized the initiation of a community planning process for the Tesuque Planning via Resolution 2019-47. The Tesuque Planning Committee is coordinated through the County Planning Division in accordance with the SLDC which includes notification to property owners and participation on the planning committee is open to all community members throughout the process.

## County Officials

Henry Roybal, Commission District 1  
Anna Hansen, Commission District 2  
Rudy Garcia, Commission District 3  
Anna Hamilton, Commission District 4  
Hank Hughes, Commission District 5

County Manager  
Katherine Miller

## Growth Management Department & Planning Division

Penny Ellis-Green, Growth Management Director  
Robert Griego, Planning Manager  
Lucy Gent Foma, Senior Planner  
Alex Painter, Community Planner  
Tim Cannon, Senior Planner  
Gary Brett Clavio, Transportation Planner

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# SECTION I: PLAN CONTEXT



## Section 1



### PURPOSE & INTENT

The purpose of the 2022 Tesuque Community Plan is to update and replace the 2013 Tesuque Community Plan. Community plans articulate the community's vision and goals for the future, identify and document past and recent history, describe current conditions and major trends and provide recommendations and strategies for achieving the community's vision and goals. The purpose of the 2022 Tesuque Community Plan is to update and replace the 2013 community plan and to ensure consistency with the Santa Fe County Sustainable Growth Management Plan (SGMP). The 2022 Tesuque Community Plan will also provide a foundation for amendments to the Tesuque Community District Overlay in the Sustainable Land Development Code (SLDC). The plan articulates the future direction for the community and provides guidance for design standards and uses, locations and intensity of development in order to protect scenic features and environmentally sensitive areas and accommodate the anticipated natural growth of the community. When adopted, it will amend the Santa Fe County Sustainable Growth Management Plan for the Tesuque Community plan area.

The 2022 Tesuque Community Plan was authorized by the Board of County Commissioners (BCC) via Resolution 2019-47. After adoption by the BCC, the 2022 Tesuque Community Plan Update will replace the 2013 Tesuque Community Plan within the SGMP.

The County and community members identified several areas of inconsistency between the 2013 Tesuque Community Plan, the SGMP, and the Tesuque Community District Overlay in the Sustainable Land Development Code (SLDC). Through a review of the documents, staff identified the following areas that needed to be addressed:

- a. Change the land use categories in the Plan to be consistent with the land use categories in the SGMP.
- b. Remove any regulatory language and references to regulations within the Plan document.
- c. Remove and replace references to ordinances which are no longer in effect.
- d. Modify the fence and wall section of the Tesuque Plan to address residents' privacy and road user safety
- e. Ensure consistency and implementation of the 2022 Tesuque Community Plan through amendments to the Tesuque Community District Overlay in the SLDC to include the following:
  1. Building height and dimension standards
  2. Use Table Matrix amendments to ensure uses intended only for the Tesuque Rural Commercial Overlays are not allowed in base zoning districts.
  3. Ensure consistency regarding school uses.

## TESUQUE DISTRICT DESCRIPTION

The Tesuque Community Plan covers the Traditional Historic Community of Tesuque which is identified as the Tesuque Community District and is located just north of the City of Santa Fe in the unincorporated area of central Santa Fe County. The Tesuque Community District is an area that lies between the City of Santa Fe to the south, the Santa Fe National Forest to the east, the Pueblo of Tesuque to the north and US Highway 285 to the west. The area includes approximately 2,950 acres encompassing the Rio Tesuque and surrounding foothills. This river valley, at the base of the foothills of the Sangre de Cristo Mountains, is home to 1,094 residents (2020 Census).

## CHALLENGES AND OPPORTUNITIES

The plan addresses new and changing conditions within the Tesuque community. Among the conditions addressed are responding to drought, flooding, fire risks, water rights and conservation concerns, implementation of the applicable terms of the Aamodt settlement agreement, changing land use patterns such as increasing proportion of second homes in the plan area and population changes, and concerns regarding enforcement of applicable land-use and fire safety codes.

### Flooding

Flooding has become an issue in Tesuque when heavy rains occur. Arroyo runoff, controlling fill patterns and addressing road drainage and bridges may become an issue in the future. There are 107 properties in Tesuque that have greater than a 26% chance of being severely affected by flooding over a the next 30 years. This represents 13% of all properties in the city.

In addition to damage on properties, flooding can also cut off access to utilities, emergency services, transportation, and may impact the overall economic well-being of an area. Overall, Tesuque has a moderate risk of flooding over the next 30 years, which means flooding is likely to impact

day to day life within the community. ([https://floodfactor.com/city/tesuque-newmexico/3577040\\_fsid](https://floodfactor.com/city/tesuque-newmexico/3577040_fsid))

### Wildfire Issues

Fire is a natural part of the New Mexico ecosystem, but with drought and decades of fire suppression, fires have the danger of growing larger, hotter, and more frequent. The extended drought has raised concerns about Tesuque's heightened vulnerability to wildfire and highlighted the need for Tesuque residents to take steps to prevent unintended wildfire and enhance the Fire District's capacity to respond to a major wildfire event.



Photo: "A tree up rooted and washed up in the middle of a flooded Rio Tesuque." Luis Sanchez Saturno/The New Mexican Sep 13, 2013 Updated Sep 13, 2013

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### Aamodt Settlement

Implementation of the settlement will involve extending water infrastructure to serve Pueblo and County residents, including Tesuque residents.

### Enforcement

Current issues needing enforcement include traffic, abandoned homes, and fencing regulations.

### Road Safety Study

Bishop's Lodge Road and Tesuque Village Roads form a historic and scenic corridor and due to Tesuque's proximity to Santa Fe and the Santa Fe National Forest has resulted in significant volumes of traffic from motorists, bikers, bicyclists and hikers seeking to access this area to include public lands and other amenities. There is a need to address issues on these roads for pedestrian and bicyclist safety. Safe transit stops and potential trailheads are some options that have been suggested by the Tesuque community. Santa Fe County is currently in the process of undertaking a road safety study along Bishop's Lodge Road, Tesuque Village Road to identify existing safety issues for road users. The results of the road safety study will be integrated into road safety planning.

### Tesuque Open Space Management Plan and Tesuque Trail Study

Santa Fe County has drafted a Little Tesuque Creek Open Space Management Plan and is in the process of developing a Trail Study to improve the sustainability of the trail, improve water quality in the creek, reduce erosion and improve wildlife habitat. The results of the trails study will be integrated into the Little Tesuque Creek Management Plan.

## PLANNING HISTORY & COMMUNITY OUTREACH

Background: Residents of Tesuque have been involved in planning efforts for many years starting with the Las Tres Villas planning effort of 1974-1978. Their dedication has resulted in both the designation of the area as a Traditional Historic Community in 1998 through Santa Fe County Ordinance 1998-6. In 2000, the adoption of the Rio Tesuque Community Land Use Plan, (via Resolution 2000-165) which amended the County's 1999 General Plan. The County adopted Ordinance 2000-13 to implement the plan the the 1996 Land Development Code. Santa Fe County replaced the 1999 General plan with the Sustainable Growth Management Plan. In 2010, Tesuque residents recognized the need to revisit and update their community plan in light of new challenges brought on by extended drought, the Aamodt settlement, the recession, and by the County's adoption in SGMP and the the County development of the SLDC which was adopted in 2015 and replaced the 1996 Land Development Code.

2013 Tesuque Community Plan : Santa Fe County's Board of County Commissioners authorized a planning process to update and amend Tesuque's community plan through Resolution 2011-134. On December 10, 2013, the Board of County Commissioners adopted the 2013 Tesuque Community Plan via Resolution 2013-139 as amendment to the SGMP. 2021 Plan Process- TBD

2022 Tesuque Community Plan: The 2022 Tesuque Community Plan was initiated when the Tesuque Valley Community Association submitted a Letter of Intent to request authorization to establish the Tesuque Planning Committee and to request authorization to initiate a community planning process to update the 2013 Tesuque Community Plan and address specific conditions for consistency between the plan and the Tesuque Community District Overlay in the Sustainable Land Development Code (SLDC). The Santa Fe Board of County Commissioners established the Tesuque Planning Committee and authorized the initiation of a community planning process for the Tesuque Planning via Resolution 2019-47. The Tesuque Planning Committee is coordinated through the County Planning Division in accordance with the SLDC which includes notifi-

cation to property owners and participation on the planning committee is open to all community members throughout the process. The 2022 Tesuque Planning Committee met monthly in-person before March 2020, when COVID stopped all County public meetings for six months. When the Committee resumed for virtual meetings in August 2020, the Committee decided to form a subcommittee to work on creating a Consensus Process by which to complete the Plan. After another Planning Committee hiatus while the Subcommittee convened, the entire Planning Committee resumed work together with County Staff and a hired facilitator in April 2021. The 2022 Tesuque Community Plan replaces the 2013 Tesuque Community Plan as an amendment to the County's comprehensive plan, the Sustainable Growth Management Plan.

#### Next Steps:

The Tesuque Community Plan will be implemented on an on-going basis through a variety of mechanisms including amendments to the SLDC, capital improvement projects, community projects and programs as identified throughout this document. Santa Fe County and other governmental agencies will have an important role as collaborators in implementation as well as supporting plan goals and objectives.



#### RELATED PLANS, POLICIES AND PROGRAMS

As part of the Tesuque Community Plan planning process, the following plans, policies, and programs were reviewed in order to understand the current policy and regulatory framework that guides development in the area and determine appropriate amendments to the framework:

Village of Tesuque Traditional Historic Community Santa Fe County Ordinance 1998-6 declared Tesuque as a Traditional Historic Community (THC) pursuant to Chapter 211, Laws of New Mexico 1995. Tesuque was designated as a THC in accordance with state law.

To Qualify as a traditional historic Community, an area shall:

- Be an unincorporated area of a class b county with a population between 95,000 and 99,000 based on the 1990 Census.
- Be an identifiable village or community that can be documented as having existed for more than 100 years;
- Include structures or landmarks associated with the identity of the specified village or community seeking designation as a traditional historic community
- Have a distinctive character or traditional quality that can be distinguished from surrounding areas or new developments in the

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vicinity; and

- Be declared as a traditional historic community by an ordinance by the BCC.

2015 Santa Fe County Sustainable Growth Management Plan (SGMP)

The Santa Fe County Sustainable Growth Management Plan provides policy direction for managing future growth across the County, including direction on creating, adopting, and implementing community plans. Sustainable Land Development Code (SLDC)

- 2016 Santa Fe County Sustainable Land Development Code (SLDC) Provides zoning regulations and standards for new development. The SLDC implements the County's and includes the Tesuque Community District Overlay.
- Santa Fe County Open Space Program: The Santa Fe County Open Space Program currently manages about 6,600 acres, including 161 acres of open space southeast of the planning boundary along Little Tesuque Creek. The area includes the La Piedra trail which provides a connection to the Dale Bale trail system.
- Santa Fe County Capital Improvement Plan (CIP): Guides public investment in projects to serve existing and future development.
- Santa Fe County Infrastructure Capital Improvement Plan (ICIP): Comprised of projects generated by the County and project requests from the community that are submitted to state legislature for capital outlay funding.
- Santa Fe County Community Wildfire Protection Plan: Identifies areas at high-risk of wildfire including Tesuque; identifies fire mitigation programs and policies.

Regional Authorities:

- Metropolitan Planning Organization (MPO)- A federally funded transportation policy-making organization responsible for programming federal transportation dollars and for transportation planning. The MPO planning area includes the community planning area.

Recognized Tesuque Acequia Associations:

- Acequia Madre de Tesuque
- Acequia del Cajon Grande
- Acequia Chiquita
- Cy Moore Ditch
- Acequia Del Medio
- McCune Ditch (historic)
- Beaty Ditch (historic)
- Carsuelo Ditch (historic)
- Tesuque Pueblo Ditch (historic)

State and Federal Agencies:

- Office of the State Engineer and Interstate Stream Commission- Responsible for administering the state's water resources. The agency has had a major role in contributing to the following:
  - o Jemez y Sangre Regional Water Plan- The Jemez y Sangre Regional Water Plan projects future water usage and identifies strategies to provide adequate water supply across Los Alamos County and portions of Santa Fe, Sandoval, and Rio Arriba County.
  - o Santa Fe County, the Pueblos of Nambe, Pojoaque, San Ildefonso and Tesuque, the State of New Mexico, the United States, and the City of Santa Fe ("Settling Parties") entered into a Settlement Agreement, which was approved and adopted by the Federal Court in 2016. The final judgment and decree was filed on July 14, 2017. The Agreement primarily concerns the water rights of the four Pueblos in the Aamodt adjudication within the Nambé-Pojoaque-Tesuque basin, but it also makes certain beneficial concessions regarding non-Pueblo water rights. The goal of the Settlement Agreement is to resolve the Pueblos' water rights claims while preserving existing non-Pueblo water uses. This goal is achieved, in part, by bringing more water into the Pojoaque Basin through the construction of a regional water system for both Pueblo and non-Pueblo water users.

- NM Environment Department- Administers programs and regulations to promote a healthy, high functioning environment. The agency's responsibilities include the administration of the Liquid Waste Program and Drinking Water Program.
- NM Department of Transportation- Responsible for planning a safe, integrated, and multi-modal transportation system. The agency's responsibilities include managing construction activities on state roads and highways.
- US Forest Service: Manages the Santa Fe National Forest.
- Bureau of Reclamation: Lead federal agency for managing and implementing the Aamodt Settlement.
- Office of the State Engineer: Approves well permits

Tesuque Pueblo:

- Tesuque Pueblo is located north of the planning boundary. Tesuque Pueblo's casino, commercial, and residential development have been significant sources of economic development in the region.

# Community Vision - Placeholder



## Section 1

### COMMUNITY CONTEXT

This section assembles economic, demographic, land use, regulations, and historic information to provide an understanding of the community context today and how it evolved.

### A BRIEF HISTORY OF TESUQUE

The name "Tesuque" is a Spanish version of the Tewa Indian '~at' unge' onwi" which means, "cottonwood place." Tesuque Village was historically part of Tesuque Pueblo which dates back at least to 900 AD. Historically, Tesuque Pueblo is noted for its exceptional pottery and for launching the initial offensive against the Spanish Colonists in 1680, which temporarily expelled the Spanish Conquistadores from the region.

The first of Hispanic settlement in the Rio Tesuque area occurred in 1732 after the De Vargas 'Reconquest' of 1692. In 1732, Antonia Montoya sold Juan de Benavides a piece of land containing much of what is now Tesuque. El Rancho Benavides extended from what is now the southern boundary of Tesuque Pueblo to the junction of the Big and Little Tesuque rivers between the mountain ridges on the East and West of the river. El Rancho Benavides became known as San Ysidro (the patron saint of farmers and the name still used for the local church) and later Tesuque Village. In 1752, Juan de Gabaldon obtained much of the Rio Tesuque region in a land grant from the Spanish Territorial Governor. In 1776, Fray Francisco Dominguez visited Rio de Tesuque village and documented that it contained 17 families with 94 people.

The acequias were, and are, much more than merely a means of fairly distributing crop irrigation water. In fact, the acequias are an important cultural heritage linking the whole community. In addition to providing irrigation water, acequias also supplied the community's drinking water, served as routes connecting individual habitations and through the "mayordomos" control of water rights, provided an effective political system that structured the entire village society. Land transaction and acequia records through the Spanish and Mexican periods show continued use of

the valley and its water for agricultural purposes. A number of those same acequias irrigate the valley today, with over 150 registered water users belonging to the five acequia associations of the valley. The patterns and configurations of land division and land use in Tesuque today reflect this historic acequia network and the associated agricultural uses of the past.

The watershed that encompasses the plan area is traversed by the Rio Tesuque, which has long been used by both the Native American and Spanish settlers as a route into the nearby Sangre de Cristo Mountains, for purposes of moving herds of sheep and cattle, hunting and the gathering of firewood, piñones and other food sources and raw materials. Portions of the historic trail system remain intact today and are used by both residents and nonresidents, primarily for recreational uses.



Numerous houses and buildings used for business and residential purposes undoubtedly date back to the mid-1800s. Archdiocese records date the current San Ysidro de Tesuque sanctuary at 1886. The Tesuque Elementary School began serving this community and neighboring communities in 1930 and is one of the oldest schools in the Santa Fe Public School system. In 2005, a new school was built on the site incorporating most of the old building. Bishop's Lodge Resort and Spa, was initially purchased and developed as a personal retreat by Archbishop Lamy in the mid-1800s and many of the historic buildings, have been preserved; most notably the Archbishop Lamy Chapel which is recognized on the National Register of Historic Places.

In the 1950's, 60's and 70's the community continued to flourish as a distinct rural community with a rich mix of agriculturally based uses which included:

- A tree nursery
- Apple orchards
- Custom butcher shop
- Iris farmers
- Williams Chicken Ranch
- Harvey family egg and dairy production for La Fonda
- Trout ponds for fish raised and delivered to Lamy to be served on the Santa Fe Super Chief
- Mushroom growers
- Vegetable gardens
- Irrigated pastures for livestock

Although there are fewer small farms and agricultural uses have downsized, the lives of the current area residents are still intermeshed through many of these environmental, economic, cultural and historical commonalities. Numerous rural endeavors are seen in the community today:

- beekeepers
- Apple and mixed fruit orchards
- Peacock and chicken owners
- Aspiring and existing vintners and distillers
- Vegetable gardens
- Irrigated pastures for horses and other livestock

The late 1970s through the present brought a wave of newcomers seeking a rural lifestyle close to amenities that the City of Santa Fe offered. Contemporary subdivision began to develop on the hills that encompass the valley and new home sites were developed on the valley floor.

## DEMOGRAPHICS, HOUSING AND EMPLOYMENT

One of the main goals of this community plan is to ensure that Tesuque maintains its rural and agricultural character as a distinct, viable village. Tesuque residents do not want Tesuque to become a bedroom community for Santa Fe.

Tesuque has struggled to maintain its rural quality, as Santa Fe, a city of around 85,000 residents (<https://www.census.gov/quickfacts/fact/table/santafecitynewmexico/PST045219>) within a metro area of about 150,000 people (<https://statisticalatlas.com/metro-area/New-Mexico/Santa-Fe/Population>) continues to grow around it. Through this community plan and past community efforts and partnerships, Tesuque continues to reinforce its historic development patterns and maintain a healthy ecosystem, enabling a sustainable future as a small distinctive rural community.

The growth in the number of Tesuque housing units is extremely high for the County. According to the census data, the numbers of residential units increased by 33% from 2000 to 2010 while the number of vacant housing units increased by 131%. From 2010 to 2017, the number of residential units increased 6.8% (49 units), however the number of families decreased from 221 in 2010 to 193 in 2017 (13% decrease). This most likely represents a substantial increase in vacation and or second homes. According to 2020 census data, total population growth for the Tesuque Census Designated Place, (CDP) which is congruent with the planning area, has been relatively low or negative as compared to the County. Between 2010 and 2020 the population increased from 925 to 1094 people representing a 18% increase over the decade.

However,

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Residents of Tesuque have grown older in the last decade. In 2020, 37% of the population was 65 years or older, an increase from 23% in 2010. Tesuque residents who are 18 and under increased by 3% in the last decade, but individuals who are 20-34 stayed about the same and 35-49 year olds decreased by 4%. Continued increases in the elderly population may increase the need for services in the area.

The 2019 American Community Survey states that 11% of Tesuque residents live in poverty, an increase from 8% in 2010. The community recognizes diversity as an indicator of a healthy, resilient community and is strongly committed to maintaining economic diversity.

Major employers in the planning area are listed below. In addition to these employers, a number of Tesuque homes employ a significant number of people.

- Tesuque Elementary School
- Santa Fe Mountain Center
- Tesuque Glass Works
- Tesuque Village Market
- Green Galleries
- Post Office
- El Nido
- San Ysidro Church
- Bishop's Lodge Resort
- Shidoni Gallery
- Local Lodging



Tesuque CDP Census 2000 & 2010						
Population						
	2000		2010		Change 200-2010	
	no. of people	% of total population	no. of people	% of population	change in no. of people 2000-2010	% change 2000-2010
Total Population	909	N/A	925	N/A	16	2%

Ethnicity						
	2000		2010		Change 200-2010	
	no. of people	% of total population	no. of people	% of population	change in no. of people 2000-2010	% change 2000-2010
Hispanic or Latino	324	36%	252	27%	-72	-22%
Not-Hispanic or Latino	585	64%	673	73%	88	15%

Age						
	2000		2010		Change 200-2010	
	no. of people	% of total population	no. of people	% of population	change in no. of people 2000-2010	% change 2000-2010
Under 18	134	15%	79	9%	-55	-41%
18 & over	776	85%	846	91%	70	9%
20-24	N/A	N/A	36	4%	N/A	N/A
25-34	N/A	N/A	61	7%	N/A	N/A
35-49	N/A	N/A	149	16%	N/A	N/A
50-64	263	29%	381	41%	118	45%
65 & over	141	16%	214	23%	73	52%

Housing						
	2000		2010		Change 2000-2010	
	no. of units	% of total units	no. of units	% of total units	change in no. of units 2000-2010	% change 2000-2010
Total Housing	541	N/A	718	N/A	177	33%
Occupied Housing	455	84%	519	72%	64	14%
Vacant Housing	86	16%	199	28%	113	131%
Owner Occupied	307	67%	341	66%	34	11%
Renter Occupied	148	33%	178	34%	30	20%
Occasional Use Housing	N/A	N/A	139	27%	N/A	N/A

Tesuque CDP Census 2010 & 2020						
Population						
	2010		2020		Change 2010-2020	
	no. of people	% of total population	no. of people	% of population	change in no. of people 2010-2020	% change 2010-2020
Total Population	925	100%	1,094	100%	169	18%

Ethnicity						
	2010		2020		Change 2010-2020	
	no. of people	% of total population	no. of people	% of population	change in no. of people 2010-2020	% change 2010-2020
Hispanic or Latino	252	27%	278	25%	26	-10%
Not Hispanic or Latino	673	73%	816	75%	143	21%

Age						
	2010		2020		Change 2010-2020	
	no. of people	% of total population	no. of people	% of population	change in no. of people 2010-2020	% change 2010-2020
Under 18	79	9%	130	12%	51	65%
18 & over	846	91%	964	88%	118	14%
20-24	36	4%	39	4%	3	9%
25-34	61	7%	71	6%	10	16%
35-49	149	16%	129	12%	-20	-13%
50-64	381	41%	242	22%	-139	-36%
65 & over	214	23%	400	37%	186	87%
Median Age	58.3 Years		60.8 Years		N/A	N/A

Housing						
	2010		2020		Change 2010-2020	
	no. of units	% of total units	no. of units	% of total units	change in no. of units 2010-2020	% change 2000-2010
Total Housing	718	100%	789	100%	71	10%
Occupied Housing	519	72%	585	74%	66	13%
Vacant Housing	199	28%	204	26%	5	3%
Owner Occupied	341	66%	429	54%	88	26%
Renter Occupied	178	34%	156	20%	-22	-12%
Occasional Use Housing	139	27%	N/A	N/A	N/A	N/A

Figure 1 Tesuque Census Data, 2010 and 2020

# SECTION II: PLAN ELEMENTS





# Bishops Lodge Corridor & Roads

Bishops Lodge Road and Tesuque Village Road Centuries ago, Bishops Lodge Road was a segment of an old Native American trail network which connected the place now known as Santa Fe with Pueblos to the north. Once the Spanish began settling in New Mexico, this trail use expanded, connecting to a larger, nationally significant transportation corridor known as the Old Spanish Trail.

The Old Spanish trail was a trade route linking Santa Fe with Los Angeles. From 1829 to 1848, the Old Spanish Trail was the principal overland route in Northern Mexico between the provinces of New Mexico and Alta California.

In 2002, Congress and the President enacted legislation creating the Old Spanish National Historic Trail. Historically, there were two main trails leading north from Santa Fe through Tesuque Village: a seasonal high road (roughly aligning with the Old Taos Highway) and a seasonal low road (roughly aligning with the Bishops Lodge Road). Bishops Lodge Road was given Old Spanish National Historic Trail signage as the road closely parallels the historical alignment. From Bishops Lodge Road in Tesuque Village, the trail continued on to Tesuque Pueblo, Pojoaque Pueblo and then branched at Santa Cruz Plaza either northwest to Abiquiu or northeast to Taos. From there, the various overland routes of the trail continued and rejoined again in southwest Utah on the way to Mission San Gabriel and the Pueblo of Los Angeles.

Bishops Lodge Road and north Tesuque Village Road, provide a unique corridor through the community that connects us to our history and to each other. Fencing in this area has historically been short, open fencing for farming and grazing management, which created the sense of a small rural agricultural community. Preserving this corridor, as well as our

network of traditional narrow roads supports our rural lifestyle and the historic character of the valley.

As with many roads that weave through traditional communities in northern New Mexico, Bishops Lodge Road has all the characteristics of a winding, historic country road that could be found in many traditional communities and older villages here or even in Europe. Tesuque residents are committed to maintaining this aesthetic, complete with its over-arching tree canopy, narrow and curving road surface, and lack of paved shoulders.

Residents and visitors cherish the winding, historic entrance to the Village of Tesuque. Bishops Lodge Road and the northern section of Tesuque Village Road form the spine of Tesuque and connect the long narrow valley that follows the contours of the Tesuque River. Portions of these roads have been designated as sections of the historic Old Spanish Trail. Low speeds are appropriate and necessary given the number of curves in the road and limited sight distance in many areas.

Equestrians, pedestrians, vehicles, and cyclists use these roads to enjoy the view and connect with neighbors, the post office, the market, the elementary school, the forest and the City of Santa Fe. Wildlife travel along the waterway of the Rio Tesuque and cross the roads in many places. Rights-of-way for acequias and the natural channels of streams, creeks and arroyos that adjoin or cross the road must also be maintained and respected.

Road user safety due to high traffic volume and excessive speed is a major concern, particularly along Bishops Lodge Road and Tesuque Village Road. The road safety need for all users of these roads requires low impact intervention in specific places while preserving the rural character. Limited sight distance and safety concerns as well as the desire to maintain a visual connection to the area to include the pastures, orchards and natural features of the landscape justify establishing standards for fences and walls in these areas subject to identified boundaries and exclusions.

The standards defined for fences and walls should recognize the distinct environments that are distinguished by land uses, topography, and historic development patterns and also recognize situations where very limited setback areas is available for walls and fences. The values that should be preserved in creating these design standards include road user safety, historic character, privacy and security concerns of property owners, and visual experience for visitors and residents coming into and traveling through Tesuque.

Fence and wall regulations outlined in the Tesuque Community District Overlay should be amended to include the following:

1. Appropriate setbacks for fences and walls in the area along Tesuque Village Road north of the Rural Commercial Overlay A should be established.
2. Opaque fences and walls fronting or running parallel to Tesuque Village Road north of the Rural Commercial and Griego Hill Districts should conform with maximum height limitations.
3. Fences and walls along Bishops Lodge Road should be governed in a graduated manner, with fences and walls closer to the road maintaining a lower height and those set back further from the road permitted greater maximum height to maintain the visual openness that currently exists.
4. Fencing and walls adjacent to these roadways should be constructed of materials that will complement the surrounding scenic resources and, where feasible, be combined with landscaping.



## Section 2

### CARS, BICYCLES, PEOPLE AND WILDLIFE

Establish historic marker for Tesuque Historic Village

Other communities in Santa Fe County have built historic markers to designate their villages. The public and residents may appreciate small signs or construction built to mark the entry of an historic village.



**Pedestrian Circulation in the Village Core**  
The village core is centered at the intersection of Bishop's Lodge Road and Tesuque Village Road and includes small-scaled commercial and community development. The lack of safe pedestrian connections limits community members from walking to, from and in-between the post office, the school and the village market. Currently most people walk along the very narrow shoulders of the road way and find portions of the walk particularly difficult due to the guard rails. Within the village core area, the existing road right-of-way associated with Tesuque Village Road varies from approximately 130' at its widest to approximately 65' at its narrowest. The right-of-way associated with Bishop's Lodge Road varies between approximately 25 feet and 40 feet. With appropriate design both rights-of-ways may accommodate safe pedestrian paths.

There is a need to improve signage and parking controls, particularly on the short section of Griego Road where it intersects with Tesuque Village Road that serves this area as a major thorough fare, yet also serves essentially as a parking lot of the Tesuque Village Market. Parking should be designed to control pedestrian circulation and vehicle intrusion into a road that is critical for fire access, school bus travel, and residential travel to and from Santa Fe. To this important safety end, fire lanes and cross walks should be identified in this important village core.

### Equestrian Uses

Tesuque roads and shoulders are occasionally used by people on horse-back primarily on their way to access local and Santa Fe National Forest trails. There is a need to identify specific routes that are aligned with roads and address safety concerns associated with the mix of roadway users and equestrians.

### Wildlife Crossings and Corridors

There are several areas in the Bishops Lodge Corridor where wildlife crossings often result in conflict with auto traffic. Some of these locations are well-known by the community and are shown on the Bishops Lodge Corridor Schematic Plan.

### Dangerous Curves

Specific sections of Bishop's Lodge Road are dangerous due to sharp curves and cars driving faster than the posted speed, including the area just north of the Bishop's Lodge Property at the "S" curve and the curve at the intersection of Big Tesuque Canyon.

Bishops Lodge Corridor and Implementation of the Aamodt Settlement  
Protect the intrinsic qualities of the Bishop's Lodge Corridor from impacts of the project.

There is concern that when the Aamodt Settlement is implemented in the planning area, the historic rural character of the Bishop's Lodge Corridor (northern Tesuque Village Road and Bishops Lodge Road) will be degraded or completely lost, that the road will be widened and that the trees, acequias and natural features along the way will be destroyed.

### Drainage and Erosion

Difficult terrain, road design and lack of preventative maintenance on both county and privately maintained roads has caused or contributed to soil erosion, impaired road surface and degradation of adjacent properties, stream beds and acequias.

Reduce drainage and erosion problems along Bishop's Lodge Road, Griego Hill Road and resulting degradation of adjacent properties while maintaining the rural character of the existing road profile.

### Dangerous Driveways

Existing non-conforming and dangerous driveways continue to pose a danger to vehicles, cyclists, pedestrians and equestrians.

### Dark Night Sky Lighting Standards in Accordance with Night Sky Protection Act

Preserve the true natural night sky that our ancestors enjoyed. As a rural road, road lighting in the corridor is minimal and should remain that way. New road lighting should only be considered at key intersections and should be limited to lighting created for the purpose of enhancing pedestrian and traffic safety during evening hours.

### Regional Transit Stop

Accommodate aging-in-place goals by supporting transit options for community members.

The North Central Regional Transit District (NCRTD) provides bus services to and from many small communities in the region. NCRTD established two transit stops within the plan area: One close to the Tesuque Village Market and another just south of the post office within county right-of-way. Both transit stops should be improved to provide for well-marked stops with shade and seating and be included as important destinations in the pedestrian circulation plan.

### Overhead Utilities

Enhance the character of the Bishop's Lodge Corridor and reduce the risk of accidents, fire and the danger of downed electric wires by converting overhead lines to underground.

Utility distribution lines mounted on utility poles following road alignments in the Bishop's Lodge Corridor detract from the scenic quality and pose fire risks to the community. There may be opportunities to convert

## Section 2



overhead utilities in the Bishop's Lodge Corridor to underground utilities as part of the Aamodt Settlement implementation or future road and utility improvement and maintenance projects.

### Private Roads and Driveways

Due to the steep slopes and soil types in the plan area road design and construction must be carefully reviewed and monitored. In general new developments should design narrow roads and driveways that follow the natural terrain without creating large cut and fill areas; roads should be designed with more natural edges, using shoulders, ditches and grassy swales rather than curb and gutter.

### Floodplain

The existence of complex floodplain conditions in the TCD planning area has led to community concerns regarding federal and local regulations. This plan envisions a cooperative approach to examining how floodplain regulations may be reviewed to ensure public safety as well as accurate depictions of developable areas.



# Agriculture, Acequias & Riparian Areas

The farms, orchards, gardens, lush river bosque, tree lined roads and functioning acequia systems provide connections to Tesuque's rural roots. Preserving and enhancing this aspect of the plan area continues to be a priority.

Tesuque's history is deeply rooted in the traditions and practices surrounding acequias and agriculture lands as well as the riparian areas associated with the river bosque. They help identify Tesuque, support a variety of plants and animals and evoke the village's history. Poorly sited development and the overgrowth of invasive species are threats to the health of acequia irrigated lands and riparian areas. There are five active acequia associations in Tesuque. A number of those same acequias irrigate the valley today, with over 150 registered water users belonging to the five acequia associations of the valley. The patterns and configurations of land division and land use in Tesuque today reflect this historic acequia network and the associated agricultural uses of the past. Programs and incentives are needed to preserve the acequias, restore the riparian areas and encourage the assembly of contiguous land for agriculture and open space.

Within the Tesuque District, there are a total of 848 parcels in the Tesuque Community Planning District, totaling 2,823 acres. Of these, there are 9 parcels totaling 78.68 acres with agricultural tax classifications.

## Conservation Area Continuity:

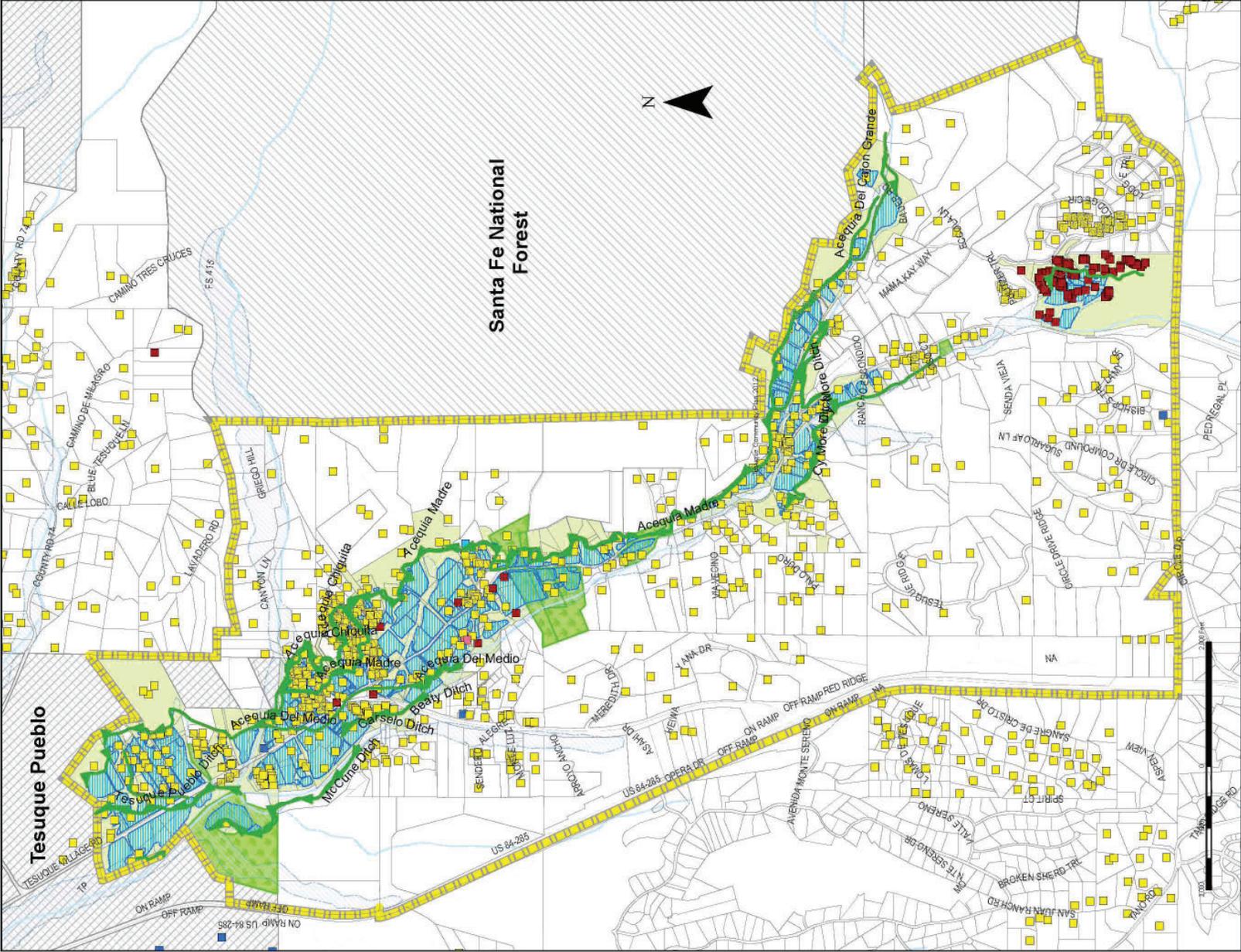
Conservation easements and tools such as the Transfer of Development Rights Program are appropriate for the preservation of agricultural land, protection of river, and riparian areas.

Tesuque has deep historic agricultural roots based on the acequia systems and a culture of community involvement and sharing of resources. The plan intends to strengthen our commitment to preservation of the natural environment, rural heritage, and the acequia landscape through support of property owners, acequia associations and community members interested in farming and local food production.

The plan recommends a three-pronged approach to enhancing opportunities for agriculture production and riparian restoration:

1. An education-based approach to educate and coordinate with property owners on establishing conservation and/or agricultural easements on their property.
2. An interagency and community collaborative approach to work with property owners to implement federal, state, local and tribal initiatives that are actively working to remove or control select invasive species such as elms and tamarisk and regenerate the vegetation native to the bosque and acequia irrigated lands.
3. An incentive-based approach to create incentives for clustered development for open space and agricultural production.





Sept. 29, 2021, T/CP Ag. & Acequia Study map\_3\_2021.mxd

Tesuque Valley Community Plan 2021  
Agriculture & Acequia Study Map

# Social Trails

For generations, walking & horseback riding are ways we connect with our natural surroundings and neighbors. The historic network of community trails and paths is a part of our rural lifestyle that needs protection.

In addition to roads and public trails, the village of Tesuque is connected by historic social trails. Such trails were established over time through historic use. They have significant community value. They facilitate land management, provide access to natural resources, support recreation, reflect village tradition, and connect neighbors to one another. Although Tesuque's social trails have long since been established by historic use, these trails are generally not documented or officially recorded. There are concerns that as property ownership changes in Tesuque, access to social trails may be inadvertently and irretrievably lost. To preserve social trails and the values associated with them, the community plan outlines strategies that inform property owners and County development review staff of the location of these historic social as an initial step to protect those trails.



# Public Access to Forest Land & Trails

Public lands and trails within and surrounding Tesuque are valued by the community and broader region. These amenities also generate visitor use impacts that should be managed more appropriately than they are at present. The Santa Fe National Forest lands adjacent to the planning area include a vast system of trails through the Sangre de Cristo Mountains. These lands have high scenic, recreation, and habitat value. Tesuque Creek Trail, the Chamisa Trail, and Winsor Trails cross the Santa Fe National Forest and there is a need for trailheads to access trails throughout Tesuque.

As significant recreation amenities for the entire region, these trails attract more visitors than there are safe and convenient parking spaces to accommodate them. Parking on the sides of the road may impede traffic and emergency vehicle access. To enhance access to public land adjacent to the planning area, the community plan outlines strategies to develop additional parking facilities and to identify locations of “overflow parking”.



# Fire Safety & Prevention

Fire will continue threaten the plan area. Having a proactive approach through prevention as well as being prepared for both are priorities of the community.

Tesuque is highly vulnerable to wildfire. Most of the Tesuque Planning area is located in the County's Urban Wildlife Interface Area—a geography that encompasses areas of the County that are at the highest risk of experiencing wildfire.

Wildfire risk increases during drought conditions and may intensify as drought continues. The 2011 wildfire season was particularly horrendous. It included the human caused Las Conchas Fire in the Jemez Mountains which burned over 245 square miles and closer to home, the Pacheco Fire which came within 5 miles of the plan area and burned over 16 square miles. In 2013 wildfire season, the ongoing Joroso Fire, 12 miles northwest of the plan area, has burned over 11,000 acres of the Santa Fe National Forest. In 2020, the Rio en Medio Fire pictured to the right, burned over 4,000 acres.

## Increase Response Capacity

Fire protection in the village is provided by the Tesuque Volunteer Fire District which consists of three volunteer fire stations located in Tesuque Village, Tesuque Pueblo, and Chupadero. The Volunteer Fire District serves Tesuque Village, Tesuque Pueblo, Chupadero, Rio El Medio, Tano, Casa De San Juan, Sundance Estates, Vista Redondo, Los Caminitos, and Hyde Park Estates. Participants in the community planning process have expressed concern that water supply to support fire protection in Tesuque Village may not be sufficient. At present, the Tesuque Village fire station draws water from a 20,000 gallon tank associated with the Tesuque Mutual Domestic Water Consumer Association, a 90,000 gallon water tank at Bishop's Lodge, and has access

to a 97,000 gallon tank outside of the plan area at Rancho Encantado as well as the ability to draw water from two outdoor swimming pools in the community. In years past, the village fire station has had the ability to draw water from two ponds in Tesuque Pueblo, but this supplemental source is not considered reliable as they are periodically dry. Of further concern is the possibility that a complete drawdown of the Tesuque mutual domestic well may collapse the system due to its age. The Tesuque Community received Firewise certification in 2017 through the efforts of the TVCA and continues to qualify each year by advancing programs of education and encouraging residents to mitigate fire danger on their properties. This is an important effort to continue.



## Section 2

# Community Facilities

Increase community cohesion and dedicated community space in Tesuque.

Tesuque has a public elementary school located on Bishop's Lodge Road. The school serves under 100 students between kindergarten and sixth grade from Tesuque, Chupadero, Rio en Medio, Tesuque Pueblo, Espanola, and the City of Santa Fe.

The elementary school is highly valued and its continued function as a school is a priority in the community. The school is an integral community facility for Tesuque. Community groups support the school. Community should work to continue to assist the school for mutual benefit.

The Tesuque Fire Station located on Senda del Fuego road is one of three volunteer fire stations that services the communities of Tesuque Village, Chupadero, Rio El Medio, Tano, Casa De San Juan, Sundance Estates, Vista Redondo, Los Caminitos, Hyde Park Estates. While the space is occasionally used for community events, its main purpose is to support emergency response so opportunities for community events are limited.

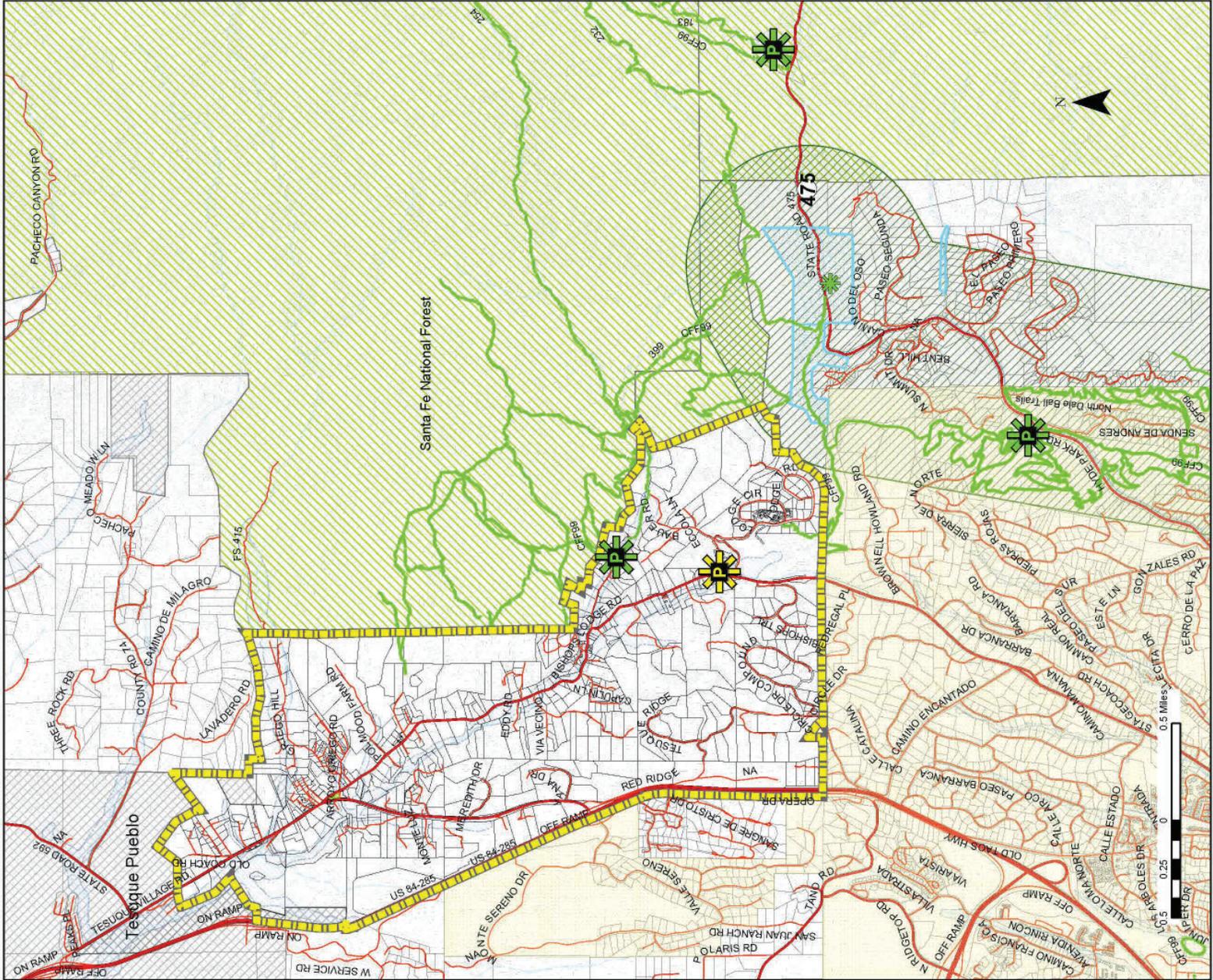
The Tesuque Village Market, and San Ysidro Church, although not public establishments, function as important community gathering spaces for community members.

The San Ysidro Mission Cemetery and the Tesuque Elementary School playground are important open spaces that provide very different functions and specific community needs.

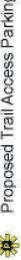
Tesuque does not have a community center or village park although its population is greater than several other communities with those amenities. The closest community center to Tesuque is the Santa Fe County Rio en Medio Senior and Community Center.

As a way of increasing cohesion in the community and facilitating implementation of this plan, the community has identified a need for a multi-purpose community facility, a small passive village park and a community website.





Sept. 29, 2021, TCP trails study map 9\_2021.mxd

-  Santa Fe National Forest Trails
-  Existing Trails
-  Contours - 20 Feet
-  Minor Roads
-  Major Roads
-  Santa Fe County Open Space
-  Potential Trail Corridor SGMP 2010
-  Existing Trail Access Parking
-  Proposed Trail Access Parking
-  City of Santa Fe
-  TVCP Community Planning District 2021

TVCP Regional Trails Study Map

## Section 2

# Water Supply and Wastewater Treatment

Tesuque's quality of life depends on adequate water quality and water quantity.

All residents and businesses in the plan area currently use ground water either drawn from private wells or community wells for their domestic water supply and to certain extent fire suppression. Their direct experience with wells and irrigation flows have led to the general agreement that ground and surface water in the plan area "is not a constant, abundant, unchanging source."

### AAMODT SETTLEMENT AND IMPLEMENTATION THROUGH TESUQUE

Water Supply and Wastewater Treatment- Tesuque's quality of life depends on adequate water quality and water quantity. All residents and businesses in the plan area currently use ground water either drawn from private wells or community wells for their domestic water supply and to certain extent fire suppression. Their direct experience with wells and irrigation flows have led to the general agreement that ground and surface water in the plan area "is not a constant, abundant, unchanging source".

The Aamodt Settlement will assist Tesuque residents and businesses in securing a more consistent water supply. As a result of the Aamodt Settlement, the Pojoaque Basin Regional Water System will be built to divert water from the Rio Grande at San Ildefonso Pueblo and pipe treated drinking water via a transmission line through the Pojoaque valley and down to Tesuque via Tesuque Village Road and Bishops Lodge Road. County residents and businesses in the Aamodt settlement area can opt into the system, ideally before the transmission and distribution lines are built, by formally making a well election through the U.S District Court. Phase II of the Pojoaque Basin Regional Water System which goes

through Tesuque is currently at 60% design. The Bureau of Reclamation is responsible for the design and construction of the system, but there will be another opportunity for Santa Fe County to give input at the 90% design phase.

The Bureau of Reclamation has identified 2026 as the goal to reaching 100% design. Substantial Completion will occur by 2028, at which point the transmission lines through Tesuque should be complete. The County will likely continue building the distribution lines out beyond 2028.

Well Election- A communication was sent out to all County properties within 200 ft of the planned water line in 2018, gauging interest in connecting and accessing a fund to cover connection costs.

It is important to note that residents have expressed concern that the implementation of the Aamodt settlement has the potential to significantly alter the community. This plan addresses concerns that the proposed alignment of the pipes which are congruent with the Bishop's Lodge Corridor may cause the roads to be widened and detract from the scenic quality and unique character. This plan does not address the terms of the settlement parties' water entitlement and use which were established under state and Federal law through the Settlement Agreement.

### Key Facts:

Domestic Wells- According to the 2021 well data from the Office of the State Engineer, and there are 566 wells in the Tesuque Planning Area – up from 517 in the year 2018.

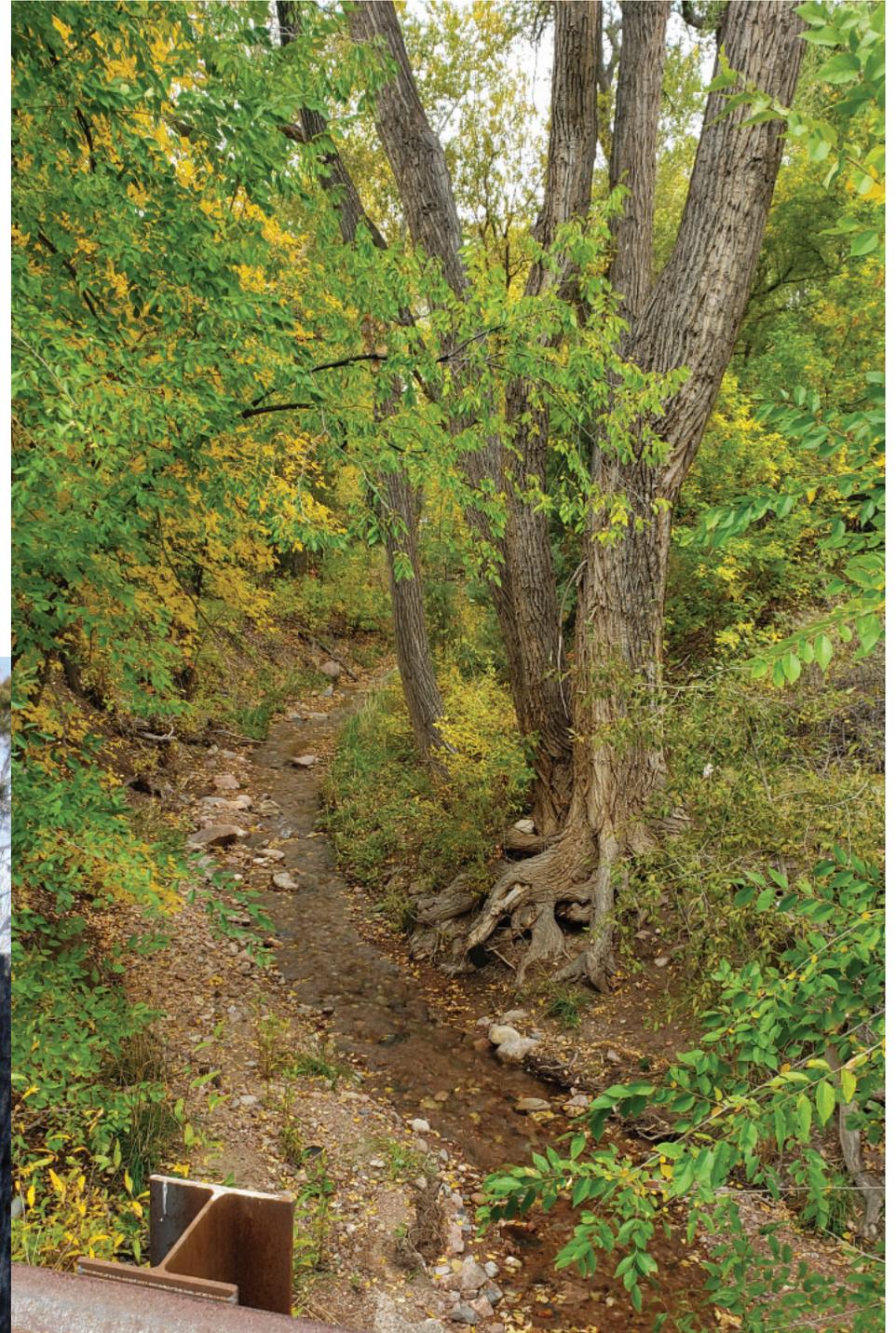
Maintaining water quality in domestic wells should be a high priority. The CDC recommends separating wells from livestock locations by at least 100 feet. The County should increase its oversight to ensure that all standards governing separation of septic, livestock, and other sources of contamination are well-regulated and controlled

Community Water - The Tesuque Mutual Domestic Water Consumers Association provides water services to 107 service connections or a pop-

ulation of about 370. Bishop's Lodge currently has their own water system but they will be required to connect with the Regional Water System when it becomes available.

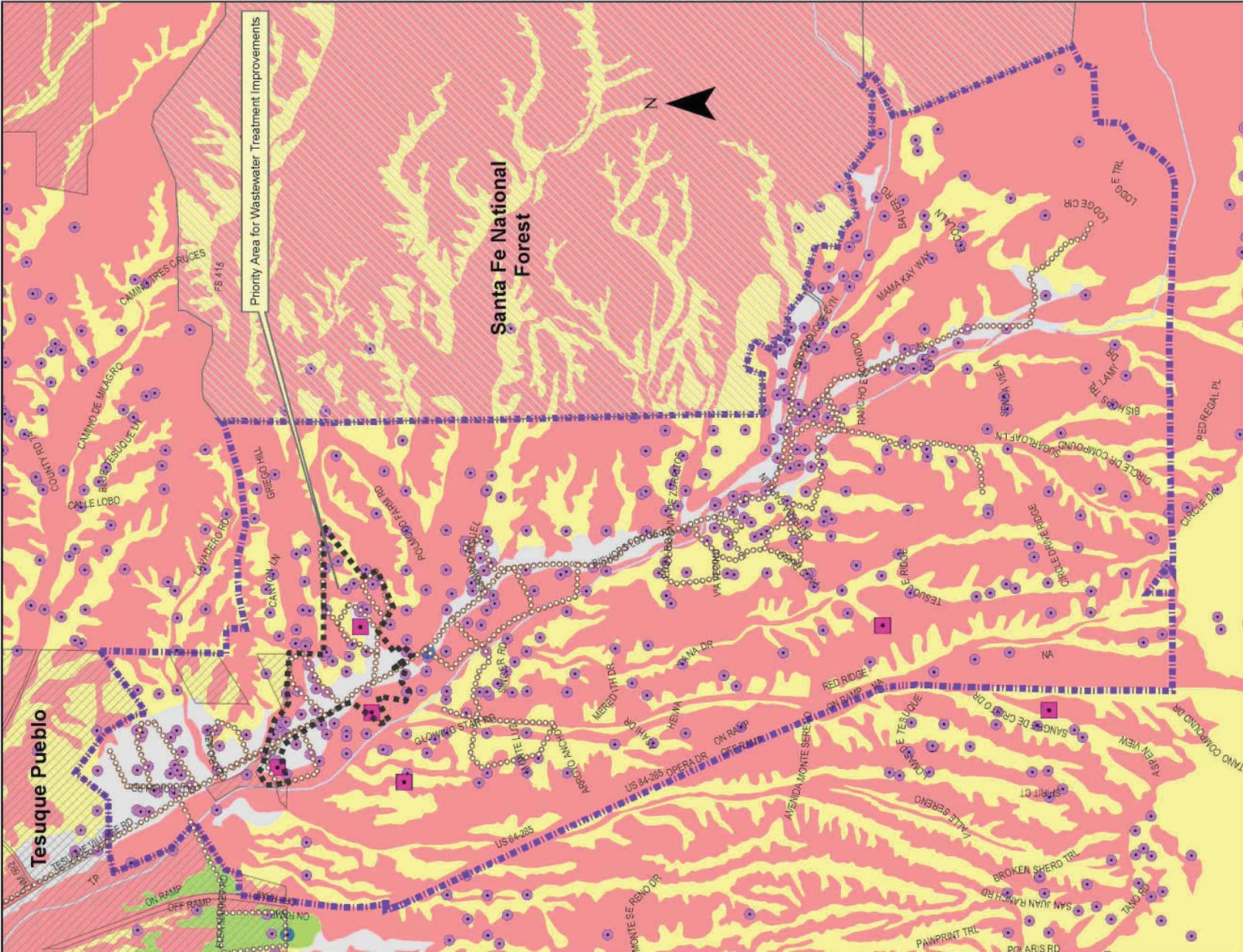
Shidoni has their own water system.

**Wastewater Infrastructure-** Most households in Tesuque rely on individual septic tanks to manage their wastewater. Tesuque's unique geographic characteristics, including soil depth to bedrock, percolation rate, depth to shallowest water table, slope, and flooding potential mean that many households in Tesuque are required to treat wastewater to higher standards than are achieved with a conventional septic systems and must purchase more expensive septic tank systems. Bishop's Lodge, Sol y Sombra Trailer Park, Riverside Mobile Home Park, and Tesuque Elementary school each have small wastewater facilities to serve their populations.



Section 2





TCP wells & waste 11\_21\_11X17.mxd

0 0.25 0.5 1 Miles

- Tesuque Community Planning Area
- Waste Water Systems
- Community Water Systems
- ANMODT Water Lines (Planned)
- Water Well Locations, October 2021
- Soils Septic Tank Suitability**
- Very limited
- Somewhat limited
- Not limited
- Not rated or not available

# SECTION III: LAND USE PLAN





# Land Uses, Densities & Development Patterns

Land Use in Tesuque is based on the acequia systems, small farms, rural roads, the natural terrain, and small scale buildings. New development and land uses should reflect the existing unique character of Tesuque and support aging in place, rural lifestyles and the ability to enjoy the quiet tranquility of this place.

## INTRODUCTION

This section identifies issues, objectives and strategies pertaining to land uses, densities, development patterns, and code enforcement.

It provides land use designations and map, and corresponding general provisions to address the following issues:

- Community has identified concerns regarding enforcement of nuisance issues which are being addressed through regular coordination with County staff. Enforcement needs include compliance with zoning regulations, particularly density or number of dwelling units.
- There is an opportunity to encourage and incentivize the preservation and assembly of agricultural and open space lands.

## Fire and the Santa Fe County Code

In addition to the SGMP and the SLDC the community is subject to the provisions of the County's Urban Wildland Interface code (as amended), and many regions are considered subject to "high-hazard" requirements governing the placement of structures, building materials, and fire hazard mitigation requirements. Thus, fire safety considerations must be factored into the Community Plan.

The current SLDC currently requires the The Santa Fe County Fire Code, as adopted by County Ordinance No. 2018-8, which adopts, with amendments, the International Fire Code, 2015 edition, and International Wildland Urban Interface Code. 2015 edition. The Tesuque Community Plan recommends that the community should continue to require the most

current Fire codes, as updated, in accordance with the SLDC.

#### Emergency Evacuation Planning

There are three points of egress out of Tesuque, via Bishops Lodge Road, and North and South Tesuque Village Road. Community members should be personally aware of their best evacuation route in case of fire, flood, or other emergency scenario.

#### Lot Coverage

Lot coverages for residential uses in the plan area vary quite a bit. In general the smaller the lots size the higher the lot coverage. To support the traditional development pattern, rural character and a healthy watershed, regulations for lot coverage should vary with lot size and pertain to permeable surfaces.

Modify density bonus incentives in Tesuque's Community District Overlay Residential Community zoning to clarify that base density is 1.5 dwelling unit per acre, with a bonus option of 1 dwelling unit per acre if 75% of the property is set aside permanently for open space.

#### Natural Landscaping

This plan envisions the use of native and drought friendly vegetation and natural landscaping to the extent practicable. Native vegetation should be preserved on development sites and locally adapted (though not invasive) plants used for landscape buffers and screening, as appropriate.

#### Enforcement

This plan recommends a proactive approach to address code enforcement issues.

Santa Fe County  
 Tesuque Community Plan  
 Revised Land Use Map

**Legend**

Santa Fe County



Tesuque Community Planning Area



Parcels



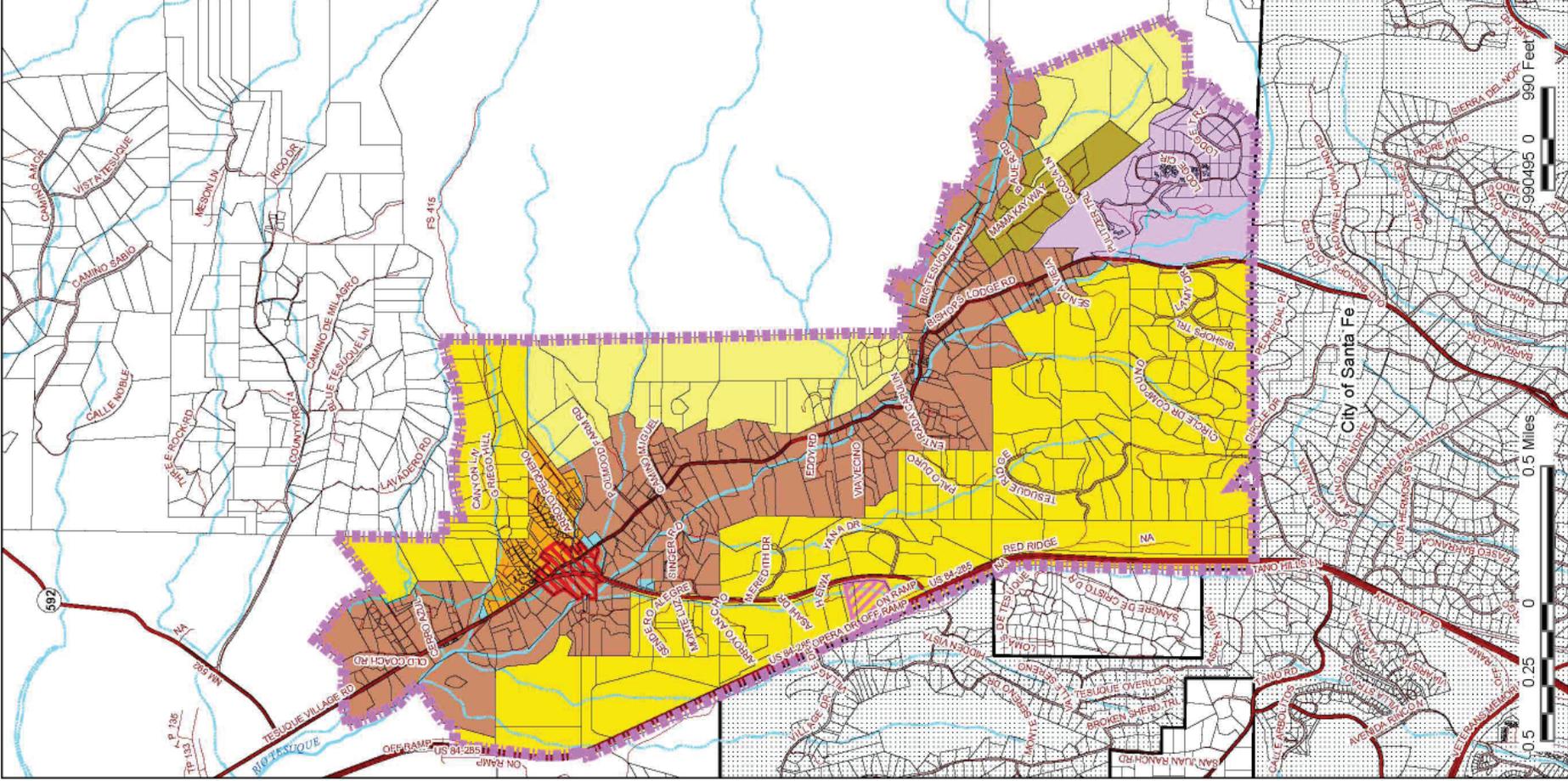
Tesuque Community Plan

Proposed Land Use Categories

- Rural Residential
- Residential Estate
- Traditional Community
- Public/Institutional
- Residential Fringe
- Residential Community
- Planned Development District

Rural Commercial Overlay District

- Area A
- Area B



## LAND USE PLAN AND MAP

The land use designations identified through the Sustainable Growth Management Plan and the 2021 Tesuque Community Plan are identified on the land use map and provide a general framework and guidance for future land use decisions.

The map delineates areas based on topography, compatible land uses, and appropriate locations for commercial and mixed-use development. General uses, densities, and development standards are described..

The planning area consists of primarily single family residential uses on rural lots ranging from less than a 1/2 acre to 40 acres. Most residences rely on septic systems and use domestic wells or community wells drawing on ground water. Residential development on the valley floor and on Griego Hill have remained consistent with the historic acequia development pattern that accommodates houses while preserving land for small scale farming and gardening sited for irrigation by the acequias. Lots associated with the western foothills reflect contemporary subdivisions patterns and range in size from 2.5 acres to 12.5 acres. The eastern foothills, adjacent to the Santa Fe National Forest, host several large lot estates and horse properties. There are also a limited number of condominiums scattered throughout the planning area and two trailer parks located off of Tesuque Village Road which house 20 - 24 units.

Commercial development is limited to Bishop's Lodge Resort and Spa in the southern portion of the plan area and a few small establishments located at or near the intersection of Bishops Lodge Road and Tesuque Village Road:

- Green Galleries- gallery which includes an outdoor sculpture collection and art consultant service.
- Tesuque Village Market- Includes a full-service restaurant and small grocery store.
- El Nido Restaurant

There are numerous businesses and home occupations throughout the plan area. The following commercial businesses are notable:

- Shidoni Gallery- Gallery which includes an outdoor sculpture collection.
- Tesuque Glassworks- Gallery and studio with an apprentice program for emerging glass artists and daily glass blowing demonstrations.
- Santa Fe Mountain Center- Administers a program to provide experiential learning opportunities for at risk and marginalized youth, a harm reduction, needle exchange program, STD and HIV prevention programs, and training and youth organizing for native communities.

Community facilities and services include the Tesuque Volunteer Fire Department, the U.S. Post Office, Tesuque Elementary School, San Ysidro Church and Cemetery, and the various acequia associations.

### Development Approval Process

The Sustainable Land Development Code (SLDC) has three different categories of permitting: Permitted Use (administrative approval of a permit application), a Conditional Use (a public hearing process with possible review by BCC), or a Prohibited Use (no option for approval).

# LAND USE CATEGORIES

The Tesuque District Land Use Categories were developed through the 2015 SLDC process in accordance with the Sustainable Growth Management Plan (SGMP) Use Categories. The Tesuque District Land Use Plan includes six Land Use Categories: Rural Residential, Residential Fringe, Residential Estate, Residential Community Traditional Community, and Public/Institutional.

### Traditional Community District

**Traditional Community.** The purpose of the TCD TC district is to continue to reflect the unique historic development patterns of the old village with a mixed pattern of lot sizes and shapes and housing types. This district is primarily single-family residential district consistent with historic options for compact residential development including clustered housing, family compounds, and secondary dwelling units. Community facilities, institutional uses, agricultural uses, and home occupations that are residential in scale are appropriate in the district. The TCD Traditional Community district accommodates traditional community patterns, preserves historic and cultural landscapes, and protects agricultural uses, including agricultural found in traditional communities with acequia systems, from encroachment by development. The base density in the Traditional Community zoning district is 1 dwelling unit per 0.75 acres.

### Residential Community District

**Residential Community.** The purpose of this district is to recognize the area along both the Big and Little Tesuque Rivers as the green heart of the plan area and the feature that differentiates Tesuque from other areas. It encompasses more than 850 acres and represents much of Tesuque's historic and agricultural past, as well as the community's desire

for continued agricultural use in the future. Preservation of this area as rural is tied to the need to keep the lands available and suitable for pastures, orchards and other agricultural uses; and for the preservation of the acequias. Uses are limited to single-family residential development, agricultural related uses, home occupations, and small scale commercial uses centrally located near the intersection of Bishop's Lodge Road and Tesuque Village Road. (See Tesuque Rural Commercial Overlay). The base density in the Residential Community zoning district is 1 dwelling unit per 1.5 acres. Properties in this zoning district may apply for a density bonus of 1 dwelling unit per 1 acre if 75% of the gross area of the lot is put into a conservation easement (or identified on the plat) as open space.

### Residential Estate District

**Residential Estate.** The purpose of this district is to designate properties that are situated on a flat ridge above the valley floor adjacent to Bishop's Lodge Hills Subdivision and accessed by either Mama Kay Way or Eccola Lane or Bauer Road. This area should continue to evolve as a primarily low-density single-family residential district with appropriate infrastructure and options for clustering in conjunction with contiguous common areas or conservation easements.

New development on slopes less than 15% should allow additional height for flexibility of floor plan design and architecture while maintaining integrity of scale and height for consideration of overall impact on viewed and following County height regulations.

New development on slopes greater than 15% should be consistent with County Terrain Management standards. The base density in the Residential Estate zoning district is 1 dwelling unit per 2.5 acres.

### Residential Fringe

**Residential Fringe.** The purpose of this district is to designate areas associated primarily with contemporary residential subdivisions that were

established off the valley floor in the surrounding piñon/juniper covered hills. The East Ridge District encompasses approximately 185 acres in the northeast portion of the plan area and abutting the Santa Fe National Forest. The West Ridge District encompasses approximately 1025 acres along the western boundary of the plan area abutting highway US 285. Uses are limited to single-family residential development, agricultural related uses and home occupations that are residential in scale. The base density in the Residential Fringe zoning district is 1 dwelling unit per 5 acres.

### Rural Residential

Rural Residential. The purpose of this district is to provide for the development of single family homes on large lots, either individually or as part of rural subdivisions; to preserve the scenic and rural character of the County; to provide consolidated open space and agricultural lands; and to recognize the desirability of carrying on compatible agricultural operations and home development in areas near the fringes of urban development while avoiding unreasonable restrictions on farming or ranching operations. This designation applies to two areas encompassing approximately 420 acres that cover large residential lots located in the foothills which border Santa Fe National Forest. This zoning district is characterized by less level, buildable area and more sloping terrain. Most of the area has good tree cover, with piñon and juniper trees predominant in the landscape. Many of the residential lots that are less than 10 acres are associated with land set aside as conservation easements or permanent open space. Uses limited to single-family residential development, agricultural related uses and home occupations that are residential in scale. The base density in the Rural Residential zoning district is 1 dwelling unit per 10 acres.

### Rural Commercial Overlay

The Rural Commercial Overlay is intended to support the needs of the community and to retain the predominantly residential character of the Village. Commercial uses that are small in scale are appropriate within

this overlay zone in order to support the development of the village as a mix of residential and commercial. Commercial development should support local employment and provide local services which do not disrupt the quiet of the Village and promote self-sufficiency for the community.

This category is designated for two different areas:

#### Area A- Village Center:

Area A is centrally located within the village core and covers lots or portions of lots with established historic commercial land uses. Area A Subdistrict has frontage on Bishop's Lodge Road and/or Tesuque Village Road. The area is envisioned to continue as mixed-use village area supporting neighborhood scale retail and commercial uses, community facilities and open space. The base density in Area A is the same as in the Traditional Community zoning district, which is 1 dwelling unit per 0.75 acres.

#### Area B- Tesuque Village Road Off-Ramp: Approx. 9 acres

Area B is located along Tesuque Village Road just east of the interchange with US 285 on approximately 9 acres of vacant land that abuts public right-of-way on three sides; Tesuque Village Road on the south and east and Highway US 285 on the west. Area B Subdistrict functions as a gateway to Tesuque. The area is envisioned to be appropriate for neighborhood-scaled and neighborhood-oriented mixed uses, including commercial offices, live work units, studios, restaurants, retail of primarily locally produced goods, community services, recreation amenities. Area B Subdistrict is not appropriate for travel services, highway oriented development or retail where the majority of goods are not produced locally. The base density in Area B is the same as in the Traditional Community zoning district, which is 1 dwelling unit per 0.75 acres.

### Public Institutional

Public Institutional. The purpose of the TCD PI district is to accommo-

## Section 3

date governmental, educational, and non-profit or institutional uses, including public or community parks and recreation facilities, and public, non-profit, and institutional residential uses, but excluding any such uses of an extensive heavy industrial character. The base density in the Public Institutional zoning district is 1 dwelling unit per 0.75 acres.

### Bishop's Lodge Resort PD

Bishop's Lodge Resort is zoned as Planned Development (PD ) in accordance with Section 8.10 of the SLDC. This designation allows the property owner to develop the property in accordance with the approved Master Plan for the property. This designation applies to the master planned development district of Bishop's Lodge Resort and Spa and associated residential development of Bishop's Lodge Hills Subdivision and the Villas at Bishop's Lodge Condominiums in the southern portion of the plan area abutting the City of Santa Fe boundary. Bishop's Lodge Ranch, Resort, Hotel and Spa have served as a resort and lodge since 1918. This area has been planned, developed and operated in accordance with a master plan that was first approved by Santa Fe County in 1984 and amended in December of 2002. The master plan, as amended and recorded, provides for the development and operation of resort facilities on approximately 93 acres, including lodging facilities, a restaurant, a spa and pool, equestrian facilities and other recreational and resort amenities, as well as approximately 225 acres of open space owned by the resort and used for hiking, mountain biking, horseback riding and similar outdoor recreational activities.

This property has a long and stable history of use as a resort, and it has the entitlements that reflect that history and its intended continuation. The entire area should continue to evolve as a planned development district as a resort and future subdivision should be limited and in accordance with the approved master plan. Approved but yet to be constructed development should continue in accordance with the approved master plan as amended and final development plans.

The community would like to see Bishop's Lodge Resort & Spa first and foremost continue as a rural resort. However, over the course of the next

25 years external forces such as market preferences may require new uses be considered in order for establishment to remain viable. New uses, (that are not identified on the approved master plan) should be compatible with the rural character of Tesuque and be planned and approved holistically as a planned development district.

### Historic, Cultural and Natural Resources

The site also hosts important historic, cultural and natural resources that should continue to be preserved and maintained:

- Archbishop Lamy Chapel which is recognized on the National Register of Historic Places.
- Portions of the site associated with the historic acequia irrigated lands and are currently used as gardens and orchards.
- Freshwater marshes along the Little Tesuque which are home to an abundance of vegetation, including highly valued historic cotton trees.

### Water & Wastewater

The resort and the residential development are both served by central water and waste water facilities. The resort has an on-property water reclamation system filter and recycles all of their water.

### Sustainable Management Practices

This plan supports and encourages the resort's sustainable management practices particularly as they are related to water conservation.

### HOME OCCUPATIONS

Home occupations in Tesuque contribute to making Tesuque a self-sufficient and lively community. Existing home occupations include but are not limited to:

- Bookkeeping services
- Counseling
- Construction company home office
- Consulting businesses

- Photographers studios
- Artists' studios
- Craft production
- Architects offices
- Septic services home office
- Horse boarding services
- Distillers and vintners

Most home occupations in Tesuque are residential in scale and have little impact on their neighbors. Increased traffic from home occupations that have daily deliveries or patron visits is inappropriate due to the narrow roads and the primarily residential and/or agricultural character of the plan area.

Goal: Maintain compatibility between home occupations and neighboring residential uses.

No-impact and low-impact home occupations should be allowed throughout the planning area.

# Implementation Strategy

## CARS, BICYCLES, PEOPLE AND WILDLIFE

Goal: Establish historic marker for Tesuque Historic Village

Action- Work with appropriate entities to secure funding for design, fabrication and installation of a set of historic markers for Tesuque.

Goal: Increase safety for all users while preserving the rural character of the Bishop's Lodge Corridor with low impact focused intervention in specific locations.

### Transition Zones – Slowing Traffic Down

Goal: Slow down traffic entering Tesuque from the north and west on Tesuque Village Road and from the south on Bishop's Lodge Road

Action: Analyze and implement appropriate traffic calming measures, integrating findings from Road Safety Study which may include actions such as additional signage, striping, edge treatments, at-grade reflectors and sharrows for transition zones between the higher speed areas, 50 MPH - 35MPH, associated with traffic coming into the valley on Bishop's Lodge Road and Tesuque Village Road and the slower speed areas, 25 MPH, associated with the traditional historic community.

Action: Identify and implement appropriate traffic calming measures, such as a three-way stop or lowering the speed limit, to increase safety for pedestrians and cyclists at the intersection of Bishop's Lodge Road and Big Tesuque Canyon (CR 72A).

## Bike Routes and On-Road Bike Lanes

Goal: Improve bicyclist safety on roads.

Action: Connect cyclists to the City of Santa Fe and surrounding areas through a formalized bike route to follow Tesuque Village Road to US 285 west frontage to connect with Tano Road and Camino Encantado, both of which are designated bike routes.

Action: Develop plan for implementation in County CIP and Transportation Plan to be establish an on-road bike lane on Tesuque Village Road by "retrofit through widening" on the northern section. Keep speed limits low on Bishop's Lodge Road to accommodate an in-traffic bicycle route from its intersection with Tesuque Village Road to the intersection with the south entrance of Bishop's Lodge Resort.

Action: Support an on-road bike lane for a limited section of road on Bishop's Lodge Road to provide the ability for southbound vehicles to pass cyclists biking up the steep climb from approximately the entrance of Bishop's Lodge Resort to the top of the hill.

Action: Develop plan for implementation in County CIP and Transportation Plan to "retrofit through striping" on the southern section.

## Pedestrian Circulation in the Village Core

Goal: Improve signage and parking controls, particularly on the short section of Griego Road where it intersects with Tesuque Village Road.

Action: Develop a pedestrian circulation plan that establishes safe pedestrian connections and crossings between the elementary school, the Village Market, the RTD Blue Route Transit stops and the post office and which includes appropriate traffic calming measures.

Action: Analyze and implement traffic calming measures to slow down traffic as it approaches the Tesuque Elementary school from the south on Bishop's Lodge Road.

### Equestrian Uses

Action: Specific routes that are aligned with roads and address safety concerns associated with the mix of roadway users and equestrians.

### Wildlife Crossings and Corridors

Goal: Minimize conflict between traffic and wildlife.

Action: Coordinate with wildlife conservation organizations, state and federal agencies to determine high frequency wildlife crossing areas within the plan area and adopt Best Management Practices plan for wildlife control and crossing.

Strategy: Road drainage design and improvements should consider conjunctive use by wildlife.

### Dangerous Curves

Action: Analyze a variety of approaches to increase safety along dangerous curves in Bishops Lodge Road Corridor.

### Bishops Lodge Corridor and the Aamodt Settlement

Goal: Protect the intrinsic qualities of the Bishop's Lodge Corridor from impacts of the project.

### Drainage and Erosion

Goal: Reduce drainage and erosion problems along Bishop's Lodge Road, Griego Hill Road and resulting degradation of adjacent properties while maintaining the rural character of the existing road profile.

Action: Recommend development of a comprehensive storm water management plan for the village core area

Action: Recommend Low Impact Development (LID) best practices and preventative maintenance practices on all future county road

improvement and maintenance projects in the plan area.

Action: Support bar ditches in lieu of curb and gutter.

### Dangerous Driveways

Goal: Reduce danger to vehicles, cyclists, pedestrians and equestrians from dangerous driveways.

Action: Recommend all future county road improvement and maintenance projects to inventory all driveways within the project area and include improvements to mitigate existing non-conforming or dangerous driveways.

### DARK NIGHT SKY LIGHTING STANDARDS IN ACCORDANCE WITH NIGH SKY PROTECTION ACT

Goal: Preserve the true natural night sky that our ancestors enjoyed.

Strategy: As a rural road, road lighting in the corridor is minimal and should remain that way.

Strategy: New road lighting should only be considered at key intersections and should be limited to lighting created for the purpose of enhancing pedestrian and traffic safety during evening hours.

Strategy: All new road improvement or maintenance projects (private and public) in the plan area should be designed in accordance with the SLDC in order to protect the dark night skies.

Strategy: Rural roadway lighting standards should conserve energy and protect the night sky.

Strategy: LEDs should be preferred or recommended over other lamp types.

Strategy: All lighting should be shielded.

## Section 3

### Regional Transit Stop

Goal: Accommodate aging-in-place goals by supporting transit options for community members.

Strategy: Both transit stops in Tesuque should be improved to provide for well-marked stops with shade and seating and be included as important destinations in the pedestrian circulation plan.

### Overhead Utilities

Goal: Enhance the character of the Bishops Lodge Corridor and reduce the risk of accidents, fire and the danger of downed electric wires by converting overhead lines to underground.

#### Bishops Lodge Corridor:

Fence and wall regulations outlined in the Tesuque Community District Overlay should be amended to include the following:

1. Appropriate setbacks for fences and walls in the area along Tesuque Village Road north of the Rural Commercial Overlay A should be established.
2. Opaque fences and walls fronting or running parallel to Tesuque Village Road north of the Rural Commercial and Griego Hill Districts should conform with maximum height limitations.
3. Fences and walls along Bishops Lodge Road should be governed in a graduated manner, with fences and walls closer to the road maintaining a lower height and those set back further from the road permitted greater maximum height to maintain the visual openness that currently exists.
4. Fencing and walls adjacent to these roadways should be constructed of materials that will complement the surrounding scenic resources and, where feasible, be combined with landscaping.

#### Lot Coverage:

Action: Modify density bonus incentives in Tesuque's Community District Overlay Residential Community zoning to clarify that base density

is 1.5 dwelling unit per acre, with a bonus option of 1 dwelling unit per acre if 75% of the property is set aside permanently for open space.

### Code Enforcement

Action: Community members will continue to schedule meetings with Santa Fe County staff to proactively address code enforcement concerns and proactive engagement on these issues.

### Agriculture, Acequias and Riparian Areas

An education-based approach:

Action: The Community could form a Stewardship Committee to educate and work with property owners on establishing conservation and/or agricultural easements on their property.

An interagency and community collaborative approach:

Action: Stewardship Committee will work with property owners to implement federal, state, local and tribal initiatives that are actively working to remove or control select invasive species such as elms and tamarisk and regenerate the vegetation native to the bosque and acequia irrigated lands.

Goal: Establish more conservation and agricultural easements in Tesuque.

Action: Create an education-based approach to educate and coordinate with property owners on establishing conservation and/or agricultural easements on their property.

Action: Create an interagency and community collaborative approach to work with property owners to implement federal, state, local and tribal initiatives that are actively working to remove or control select invasive species such as elms and tamarisk and regenerate the

vegetation native to the bosque and acequia irrigated lands.

Action: work with County staff to create an incentive-based approach to create incentives for clustered development for open space and agricultural production.

Social Trails:

Goal: Preserve Tesuque's historic social trails.

Strategy: The Community could work with property owners to record easements for the social trails with the County Clerk so that easements, points of access, and allowable uses are on record for title searches and are disclosed to new property owners.

#### FOREST ROAD 415

Goal: Connect Tesuque to Santa Fe National Forest via Forest Road 415

Parking

Strategy: Trail parking continues as a problem. The community should work with property owners to find more parking for trails.

Action: Replace damaged, aging, or antiquated signage along Big Tesuque Canyon.

Public Access to Forest Lands and Trails:

Action: The Community could work with Bishop's Lodge and Santa Fe County Public Works to explore the possibility of creating parking spaces and trailhead signage on the public right of way north of the entrance to Bishop's Lodge and/or within the Bishop's Lodge facility, as appropriate, in order to provide additional parking for cyclists using the Windsor trail and alleviate parking congestion at existing trailheads, (see Forest Trails and Access Study Map page).

Action: The Community could work with Bishop's Lodge to explore the possibility of providing public access to the Windsor Trail using existing resort trails and road network.

Action: Currently County Road 72A provides a trailhead with limited

parking for the Tesuque Creek Trail and Windsor Trail. The Community could work with Santa Fe County Public Works to develop signage at the trailhead that alerts hikers of trailheads off of Hyde Parke Road that provide access to the Windsor trail and Tesuque Creek Trail with more plentiful parking, (see Forest Trails and Access Study Map page 57).

Action: The Community could work with Santa Fe County Public Works and the Tesuque Volunteer Fire District to provide signage at the County Road 72A trailhead.

Fire Safety and Prevention:

Action: Purchase and locate supplemental water tanks on suitable sites that support the volunteer fire district's operational readiness and that minimizes visual/aesthetic impact. Locations that have been discussed with the community and the fire district include: elevated land just west of Tesuque Village Road across from the existing fire station, and a suitable site between Tesuque Elementary School and Bishop's Lodge Resort.

Strategy: The community plan encourages residents to take advantage of the County's free service to assess household wildfire vulnerability. This service provides information to fire districts regarding how to effectively fight fires that may affect households and educates households as to steps they can take to mitigate their wildfire vulnerability.

Community Facilities:

Action: Create a community website that has an interactive community announcement page as well as an information kiosk at the post office.

Action: The TVCA should develop and maintain a community website or a bulletin board.

Goal: Develop a multi-purpose community center.

Action: In collaboration with the county, the community will identify developed and undeveloped properties in the Village core area that should be considered as potential sites for conversion as a community center

## Section 2

Action: The community in collaboration with the County will conduct a needs assessment and develop a preliminary program to use as a basis for siting and design of a community center.

Action: Tesuque will work with State Representatives of House District 46 and Senate District 25 to secure a state appropriation or other means of funding to support the siting and development of a community center.

Goal: Increase community outdoor space in the heart of the village.

Action: Tesuque will work with the County to evaluate a variety of sites within the village core area and explore the possibility of establishing and maintaining a small passive village park in conjunction with proposed pedestrian paths.

Water and Wastewater:

Goal: Develop more centralized approaches to managing wastewater.

Strategy: Santa Fe County and the Community could explore the feasibility of developing central community waste water facility for the Village Core area and Griego Hill to include the Tesuque Elementary School, commercial uses, the mobile home parks and homes. The Community could request help from the County and other government agencies, for example by requesting funding through the Capital Improvement Plan (See Water & Wastewater Study Map).

Goal: Increase County oversight of liquid waste disposal systems, including septic tanks to reduce ground water and surface water pollution due to failing systems.

Strategy: County should determine the efficacy of liquid waste disposal systems by requiring inspection and implementation of improvements as needed as part of development permit application for new development, change in use or increase in the intensity of activity.

Strategy: County should determine the efficacy of liquid waste disposal systems by requiring inspection and implementation of improvements as needed as part of business license and/or home occupation permit application.

Goal: Increase awareness of Tesuque water quality and means of enhancing water quality.

Strategy: The Community could reach out to a technical assistance organization such as Amigos Bravos to explore ways for Tesuque residents to monitor the presence of contaminants that aren't already regulated by the New Mexico Environment Department and if appropriate, develop a strategy to address water contaminants.

Strategy: The Community could form a subcommittee to develop educational materials documenting how individual households can minimize their impact on water resources.

Home Occupation:

Goal: Maintain compatibility between home occupations and neighboring residential uses.

Appendices

Appendix 1: Consensus Decision Making Subcommittee Report: Recommendations to the Tesuque Planning Committee March 12, 2021

Appendix 2: A Resolution to Approve the Settlement Agreement with Santa Fe County for a Right-of-Way for Santa Fe County for County Maintained Road 72-I

Consensus Decision Making Subcommittee  
Report: Recommendations to the Tesuque  
Community Planning Committee

Submitted by the Tesuque Valley Community Planning  
Consensus Decision-Making Subcommittee

*Randolph Buckley, Bruce MacAllister, Dale Osmun, Lynn Pickard, Megan Seret, and  
Peter Wurzbarger*

March 12, 2021

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## I. Introduction and Subcommittee Methodology

The Consensus Decision Making Subcommittee ["Subcommittee" or "we"] held a series of meetings between October 5, 2020 and March 11, 2021 to fulfill its Planning Committee assignment. In advance of the meeting the Subcommittee members agreed that Bruce MacAllister would serve as a "conductor"<sup>1</sup> and that Lynn Pickard would serve as the Subcommittee note taker for the meetings. Despite these collateral duties, each member retained an equal voice in the Subcommittee's work. The Subcommittee designed the meeting process by agreeing initially on its charter and by using a "single document approach"<sup>2</sup> that enabled everyone to suggest changes and additions to the Subcommittee product. Subcommittee members conducted extensive research and reviewed many expert sources regarding community consensus-building and developed a shared understanding of "consensus," "deadline,"<sup>3</sup> and approaches to consensus building. This Report includes the Subcommittee's research and recommendations.

## II. Subcommittee Charter

Based on the tasking conveyed to us by Lucy Foma, Santa Fe County, we agreed on the following charter statement:

*"The role of the subcommittee is to recommend a process and approaches, which, if approved, will enable the full Tesuque Community Planning Committee to consider substantive issues, using a process designed to maximize fairness, to maximize full and equal participation, and to minimize the potential for deadlock."*

While we agreed that this tasking represented an appropriate charter statement, we also agreed that our recommendations would be developed and presented in the context of the pending Planning Committee discussion relating to fences and walls. The Subcommittee viewed this approach as the most efficient way to enable the Planning Committee to see how our recommendations would apply and be a good way for the Subcommittee, itself, to test its recommendations in advance.

## III. Subcommittee Recommendations on Consensus Concepts and Suggested Meeting Processes

### 1. Responsibilities of the Planning Committee

The overall goal of the Planning Committee is to finalize recommended language for the 2021 Tesuque Community Plan and to agree on key language recommended for sections of the Tesuque "Sustainable Land-use Development Code" [SLDC] overlay provisions applying to the Tesuque Overlay. Section 2.1.5.5. of the SLDC provides that "... The Planning Committee shall determine the planning process to be used and the basic guidelines for consensus decision-making ...". Accordingly, the Planning Committee is tasked with evaluating all aspects of the consensus decision making process. These include agreeing on

<sup>1</sup> MacAllister suggested the concept of a meeting "conductor" in lieu of a paid outside facilitator. As someone already familiar with the situation, and also an experienced meeting facilitator, the role of "conductor" allowed MacAllister to host and facilitate the series of Subcommittee meetings while allowing him the flexibility to occasionally step outside of the facilitator role to voice his own positions.

<sup>2</sup> The "single document approach," is a system by which the product of the working group was tracked and recorded in a single working draft, that became this document.

definitions for consensus, as well as planning for situations where efforts at consensus fail. Then, using those processes to reach consensus or resolve deadlocks as necessary to prepare its recommendations to the County. This Section provides the Subcommittee's recommendations and proposed definitions for consensus decision making and for working past deadlock.

2. Consensus

Recommended Definition of Consensus Agreement for Use by the Planning Committee

Based on its research, and subject to a process designed to encourage unanimous decision-making when possible, we recommend that the Planning Committee adopt a reasonable standard to determine whether consensus exist by applying the following definition:

*Consensus does not necessarily require unanimous agreement from all Planning Committee participants. In the Planning Committee context, it means overwhelming agreement among the participants after they have engaged in a good-faith effort to reach a unanimous agreement through a full, fair, and balanced discussion. In this context "agreement" means that even though the proposed option might not be the participant's preferred option, the participant can "live with" it. "Overwhelming agreement" is reached when seventy-five (75%) percent of those participating in the Planning Committee discussion (in the then-current meeting, or as the committee otherwise decides) reach agreement as defined in this paragraph<sup>1</sup>.*

3. Recommended Consensus Decision Making Approach:

The Subcommittee recommends the following steps as a process for seeking unanimous agreement or at least reaching overwhelming agreement. The Subcommittee recommends that the Planning Committee use the following tools and approaches for moving forward:

1. **Advance Agenda.** An agenda and the topic(s) for discussion should be identified and distributed approximately two weeks in advance of the Planning Committee meeting on the topic.
  - a. The agenda should be designed to encourage full review of the topic. For example, with respect to fences and walls, the Planning Committee should design the agenda to initially encourage discussion relevant to the overall topic of fences and walls before channeling Planning Committee participants into the more narrow, distinct elements related to that topic.
2. **Reasonable scope.** While general discussion is encouraged, the agenda should be tailored so that the discussion can be completed within the time allotted. Topics should be reasonably narrow to ensure adequate time to discuss and review time at the scheduled meeting. There is no harm in completing the chosen task and ending a meeting early. And, this is preferable to running out of time before reaching a clear agreement.
3. **Ground Rules.** The Planning Committee should agree to a set of ground rules and working processes at its next meeting. The ground rules should enforce civility and order, maintain focus on the agenda topics, and agree on a process that enables every participant to be heard. They should also include an agreement that Planning Committee participants will share and discuss their ideas and approaches **directly with the Planning Committee (i.e., not filtered by County staff)** so that all participants have equal access to the information.

<sup>1</sup> The Planning Committee should expressly agree on the voting pool involved in the consensus process. How does the committee wish to conduct the process to determine consensus?

4. *Preparing in advance of the meeting.* To enhance meeting efficiency Planning Committee participants should be encouraged to endorse or propose changes to recommendations in advance of the meeting and to coalesce around proposed approaches.
5. *Agree on a facilitation model.* The Planning Committee may wish to consider other facilitation models that do not require county staff to facilitate. The Subcommittee used a “conductor” model that allowed the group to use a resource familiar with the issues and to avoid the expense of an outside facilitator. However, any model supported by the consensus of the Planning Committee is acceptable. It need only be agreed to in advance.
6. *Align expectations at the opening of the meeting.* The meeting agenda, goal, and ground rules should be reviewed at the opening of the meeting.
  - a. “Ice-breakers” and other activities should be kept to a minimum to maximize issue-focused discussion time.
  - b. Among other provisions, the ground rules should include the detailed information regarding finality of agreement and the processes used to reach agreement as described in the following paragraphs.
7. *Begin the meetings with an open forum.* Once the agenda and ground rules have been reviewed, time should be allotted to each participant so that they may introduce themselves and share their position, thoughts, and questions *relevant to the discussion topic*.
8. *Brainstorming.* After introductions and sharing of interests, through an orderly, informal, but reasonably structured process, and in light of the goal of reaching unanimity or at least overwhelming agreement, the participants should be encouraged to offer proposed compromises or approaches that they believe will protect and/or further the interests involved relative to the planning option, considering options that may be widely acceptable to the group.
  - a. Proposed approaches offered with statements such as “could everyone live with this approach?” should be encouraged.
  - b. Notwithstanding the goal of unanimity or at least substantial agreement, options still need to be reasonably specific and not so diluted as to render the approach vague, difficult to understand, or of little or no consequence.
9. *Measuring Progress through “Straw Polling.”*
  - a. A straw poll is an informal polling procedure that allows each participant to indicate whether they “can live with” the proposal under discussion. To measure progress towards agreement, the Planning Committee should periodically use straw polls to gauge progress towards agreement.
  - b. After reasonable discussion, any participant may request that the Planning Committee conduct a straw poll and may frame the question to be measured. Those opposed to the agreement, will be given a reasonable opportunity to explain their concerns and objections.
  - c. As long as the sixty percent (60%) of the Planning Committee believes that progress towards an agreement is being made, it may continue discussion and periodically measure progress through the straw polling process.

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d. If the Planning Committee finds that there is little or no progress towards unanimity, the Planning Committee should measure the extent of agreement through a final straw poll.

e. In the straw voting process, failing to respond will be deemed to be agreement.

10. *Reaching Agreement.* The Planning Committee should determine whether “consensus” has been reached or whether it may have reached a “deadlock.”

a. If, after reasonable efforts to secure unanimous agreement have occurred, the Planning Committee determines through the straw polling process that consensus has been reached, as defined in these recommendations, the committee should accept the terms as of the last straw poll.

b. If the Planning Committee finds that there is no consensus, it can determine that a “deadlock” exists and apply the response it has developed as a blanket deadlock response or issue-based deadlock response as described in Sections 4 through 6, below. In the alternative, the Planning Committee may defer the decision for up to 48 hours to allow the participants to evaluate the proposal and reconsider agreement or to suggest a reasonable option designed to break the deadlock.

11. *Confirming agreement.* When the straw polling process indicates that an agreement has been reached, before discussion on the issue is closed, the participants will agree on the language used to document the agreement. A scribe will be identified to record the agreed terms. All meetings shall be recorded and all agreements reached by the Planning Committee shall be documented and distributed to the participants – generally within 48 hours, depending on the complexity of the documentation.

12. *Commitment to Participation.* Reaching clear, final agreements is a primary goal of the Planning Committee. For efficient use of time, the Planning Committee should seek express agreement during the meeting when apparent consensus has been reached. The ground rules should reflect that all participants have the responsibility to participate in good faith and to state agreement or disagreement with proposals. Unless a participant expressly requests additional time to consider the tentative agreement, silence will be deemed to be agreement.

13. *Settlement evaluation time.* If requested by a participant, to encourage the widest agreement possible and to accommodate different individual processing and decision-making styles, the Planning Committee may agree to allow parties up to 24 hours to consider on the pending agreement. The party seeking the additional time has the burden to notify the Planning Committee of their agreement or disagreement. Failure to notify the Planning Committee within the allotted time will be deemed as agreement.

14. *Moving the agreement forward.* When all positions are final, if the consensus polling process indicates that there is overwhelming agreement in any event, the Planning Committee may determine that it has reach agreement and move forward. If there is not unanimous or overwhelming agreement, the Planning Committee may determine that there is a deadlock and implement the pre-agreed outcome that the deadlock implicates.

15. *Finalizing the Agreement.* After reaching agreement during the meeting, the Planning Committee should prepare the agreed language for distribution to the participants. When distributing the agreement documentation, the Planning Committee will provide a deadline, after which the

agreement, as documented, becomes final. If there are changes that can be reconciled among the participants outside of a meeting, the participants can submit revised language for review and approval at the next meeting. This review process is intended as a good-faith mechanism to ensure full and fair acceptance of an agreement. It is not intended for use by anyone as a tactic to disrupt the consensus process. The Planning Committee may refer back to the recorded transcript of the meeting to resolve differences in proposed language. If a majority of the Planning Committee determines that the review process is being abused, and there is nonetheless "overwhelming agreement," in spite of an individual objection, the Planning Committee may finalize the agreement as developed at the last meeting.

#### 4. "Deadlock"

Deadlock Defined:

Based on its research, the Subcommittee developed the following definition of deadlock:

*"Deadlock" exists when, after good faith efforts to reach "consensus" (i.e., unanimous or "overwhelming agreement," as defined) through the Planning Committee's consensus decision making process, the Planning Committee members fail to agree on recommended language. Should deadlock occur, the Planning Committee agrees that, the default option agreed to by the Planning Committee in advance of the discussion shall apply.*

#### 5. Avoiding Deadlock and Ensuring Equal Commitment to the Process and Advance Agreement on the Implications of "Deadlock"

The Subcommittee determined that potential power imbalances among participants can adversely affect the consensus decision making process. To ensure full participation, the Subcommittee recommends that the Planning Committee embrace a decision making process that ensures that all participants place "everything on the table" and have an equal stake in the outcome. If certain parties believe that they can negotiate from a point of strength, they will be less committed to full participation. Accordingly, the Subcommittee recommends that the Planning Committee agree *in advance* what the implications of deadlock will be. This can be an important technique for neutralizing real and perceived power imbalances.

#### 6. Implications of and Moving Through "Deadlock"

After it confirms the definition of "deadlock," the Subcommittee believes that it is imperative that the Planning Committee agrees in advance what the implications of deadlock will mean relative to the pending issue(s). Before discussing any issue where there is a reasonable possibility of deadlock, the Planning Committee should agree on the implications of deadlock as a part of its ground rules discussion. The Planning Committee may develop a default approach for how to move through deadlock on a blanket basis or on an issue-by-by issue basis.

Based on its research and review of the root causes of deadlock to this point, the Subcommittee determined that a contributing reason for current deadlock stems from differing understandings of the implications of deadlock and the resulting default outcome. For example, some potentially perceive an advantage to simply not participating, as they may have perceived the implications of "deadlock" mean that current language remains in place and that is what they desire. Thus, the Subcommittee believes in the importance that all participants agree that all options are placed equally on the table pending a consensus-based agreement. With *advance agreement and understanding* that everything is on the table, and that failure to reach consensus on specific language means a specific default will occur, all participants come to the meeting on an equal footing, and full participation is more likely.

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The Subcommittee considered the range of approaches for moving through deadlock and, simply put, found four options. While some Subcommittee members shared their individual preferences, the Subcommittee is not identifying one approach as preferred or recommended. However, as stated, it strongly recommends that the Planning Committee reach an *advance agreement of the implications of deadlock before moving into any potentially controversial discussion.*

The Subcommittee identified these optional approaches for this advance agreement. In light of deadlock, the Planning Committee can elect to:

1. *Continue review and defer further discussion pending additional research and information.* If there is consensus (as defined herein) to support this approach, the Planning Committee may defer a decision on the issue and seek additional information or preparation (See, SLDC 2.1.5.4)<sup>4</sup> and agree to revisit the issue with additional information;
2. Agree in advance that deadlock means that the existing language of the 2013 Community Plan and current overlay remain in place.
3. Agree in advance that deadlock means that current Community Plan language is removed and that the Planning Committee supports, by default, removal of any language in the in the County’s SLDC Overlay for Tesuque, or the applicable overlay area, reverting to default general County SLDC language.
4. Agree in advance to a more acceptable hybrid alternative reached, through advance discussion or as a result of discussions based on additional information.

#### IV. RECOMMENDATIONS FOR NEXT TWO PLANNING COMMITTEE MEETINGS

##### A. Proposed Ground Rules for Planning Committee

1. The meeting will be recorded on the video platform used.
2. Each member has a responsibility to share their positions and perspectives.
3. The meeting process should be structured to enable all participants an opportunity to provide input. Periodically, the group should pause to verify participation by offering opportunities for all participants to share their input, opinions, and position.
4. Building agreement in in real time in the meeting is preferred.
5. The Committee will measure its progress towards agreement by periodically conducting straw polls.
6. If an agreement has tentatively been reached, if participant needs time to reflect on the pending agreement, they must specifically request the additional time, so that the pending agreement can be deferred for further review as provided in Settlement Evaluation Time section. If the participant does not request time, or fails to respond within the agreed additional time, the Committee will move forward as provided, above.

<sup>4</sup> *“2.1.5.4. County planning staff in coordination with the Planning Committee shall develop a public participation plan that assures representation of a diverse cross section of the community. The public participation plan may include public meetings, surveys, establishment of topic specific Subcommittees, outreach to community groups and interested parties.”*

*Tesuque Community Planning Committee  
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7. The committee will designate a meeting facilitator as described above. If this person is also a member of the committee, i.e., a “conductor,” they must expressly identify times when they are speaking as a participant and not as the “conductor.”
8. The facilitator/conductor, will outline ground rules for the orderly conduct of the meeting and will request that participants will use the “raise hand function” in the video platform or raise hand in their video window if the conductor observes that participants are not able to provide timely input to the topic.
9. Participants should not interrupt one another and they will allow each participant to finish their complete thought without interruption.
10. The note taker and others may ask for clarification of points made by other participants.
11. If a participant needs to step away from the meeting temporarily or leave the meeting before its conclusion, they should advise the group, as the total group size affects the proportions that govern determining consensus.
12. Any member may suggest additional ground rules at any time.

**B. PROPOSED AGENDA FOR PROCESS MEETING**

1. Opening Activities:

1. Review of Virtual Meeting Protocols
2. Brief Introductions
3. Review of Proposed Agenda
4. Review Ground Rules
5. Agree on meeting goals for meeting

2. Substantive Work

1. Review Consensus Decision Making Subcommittee Recommendations and confirm or modify the:
  - a. Definition of Consensus
  - b. Definition and implications of Deadlock
  - c. Advance agreement on implications of deadlock, and
  - d. The general overall approach
2. Wrap up
  - a. Document process agreements and affirmation or modification of Subcommittee Recommendations

**C. PROPOSED AGENDA FOR FENCES AND WALLS MEETING**

1. Opening Activities

1. Review of Virtual Meeting Protocols
2. Brief Introductions
3. Review of Proposed Agenda
4. Review Ground Rules
5. Agree on meeting goals for meeting

2. Fences and Walls Discussion

1. At this stage participants should be encouraged to share their perspective on the interests that they believe should be protected or furthered.
2. Identify shared common interests
3. Identification of options and proposed approaches
4. Agree in advance what the implications of a deadlock will be, such as:
  - a. Deferring pending receipt of more information;

- b. Agreeing to Rescind current Community Plan Language regarding fences and walls and allow the default general County language to apply;
  - c. Agreeing to completely accept the language of the current Community Plan relating to Fences and Walls; or,
  - d. Applying a pre-agreed hybrid agreement.
  - 5. Reaching a consensus-based agreement relative to the Community Plan and related overlay language. Modifications may include changes in scope of overlay, wall setbacks, wall height, changes in areas subject to limitations, and other elements.
3. Meeting Conclusion
- 1. Affirm the specifics of all agreements and document the results.
  - 2. Identify any open items that were unresolved or pending a post-meeting evaluation.
  - 3. Agree on focus for Next Meeting.
  - 4. Set Date of Next Meeting.

## V. Conclusion

The Subcommittee unanimously recommends that the Planning Committee use the definitions, approaches, and processes provided in this report as a primary tool to move forward to fulfill its mission in support of the County planning initiative.

Respectfully submitted,

Tesuque Valley Community Planning Consensus Decision-Making Subcommittee  
*Randolph Buckley, Bruce MacAllister, Dale Ormon, Lynn Pickard, Megan Seret, and Peter Wurzbarger*

*Tesuque Community Planning Committee  
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## Section 3

### Appendix 2: A Resolution to Approve the Settlement Agreement with Santa Fe County for a Right-of-Way for Santa Fe County for County Maintained Road 72-I

Santa Fe County Tracking No. 2018-0267-PW

#### SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into as of this \_ day of January, 2018, by and between the Pueblo of Tesuque (“Pueblo”), Santa Fe County (“County”), and the United States Department of the Interior (“Department”). The Pueblo, the County, and the Department are sometimes each referred to as a “Party” and together as the “Parties.”

#### RECITALS

WHEREAS, County-Maintained Road (“CMR”) 72-I, as defined in this Agreement, is located within the exterior boundaries of the Pueblo, segments of which traverse Pueblo Land and segments of which traverse Private Land; and

WHEREAS, the Department and the Pueblo claim that the segments of CMR 72-I that traverse Pueblo Land are in trespass; and

WHEREAS, the County disputes that CMR 72-I is in trespass on Pueblo Land; and

WHEREAS, judicial resolution of this disagreement regarding CMR 72-I would be time consuming, expensive, and divisive, and would adversely affect the Parties’ efforts to work collaboratively on other issues of critical concern; and

WHEREAS, conclusively resolving longstanding issues that have the potential to divide the community is of paramount importance to the Parties; and

WHEREAS, for purposes of amicably resolving their dispute, this Agreement sets out the terms and conditions under which: (a) the County will apply to the Bureau of Indian Affairs (“BIA”) pursuant to 25 C.F.R. Part 169 for a right-of-way (“ROW”) for CMR 72-I located on Pueblo Land; (b) the Pueblo will consent to the Secretary’s grant of ROW for CMR 72-I, which ROW shall have an initial term of ninety-nine (99) years and an automatic renewal term of an additional ninety-nine (99) years; (c) the County will compensate the Pueblo for the ROW granted by the Secretary; (d) the Parties will grant certain mutual releases of liability; and (e) the Parties will perform such other tasks as described below.

#### AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and obligations set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County will submit, with the Pueblo’s consent, the documentation necessary for the Secretary to grant a ROW for CMR 72-I, according to the process defined herein: \_\_\_\_\_

Section 1. Definitions. Capitalized terms are defined either in the text of this Agreement or in this Section. In addition, the definitions found at 25 C.F.R. Part 169 apply to this Agreement.

- A. “Construction” means any road work activities that are not considered Maintenance as defined below.
- B. “Contributed Funds Agreement” or “CFA” means the funding agreement to be entered into between the Secretary and the County pursuant to the Aamodt Litigation Settlement Act, Pub. L. No. 111-291, § 611(d)(1)(B) (2010). The CFA will provide for the County’s contribution of the non-Federal share of the costs of constructing the Regional Water System in accordance with Section 3.1.3 of the August 27, 2009 Cost Sharing and System Integration Agreement.
- C. “County-Maintained Road” or “CMR” means CMR 72-1 within the exterior boundaries of the Pueblo and, as depicted on the map attached hereto as Exhibit A, which is incorporated into and made part of this Agreement by this reference.
- D. “Escrow Agent” means the company selected by the Parties pursuant to Section 2(B).
- E. “Gap” means a gap of Pueblo Land located directly between Private Land and a Public Road that prevents lawful ingress and egress from the Private Land to the Public Road.
- F. “Maintenance” means the preservation of the entire road, including surface, shoulders, roadsides, structures, and such traffic-control devices as are necessary for safe and efficient utilization of the road. 23 U.S.C. § 101 (a)(13).
- G. “Private Land” means the land located within the exterior boundaries of the Pueblo that the United States patented to private claimants or to which Indian Title has otherwise been duly extinguished.
- H. “Public Road” is a road open to public travel, and not subject to any type of tolls or fees.
- I. “Pueblo Land” or “Pueblo Lands” means real property owned by the Pueblo of Tesuque in fee simple subject to Federal restrictions against alienation, or lands owned by the United States in trust for the benefit of the Pueblo.
- J. “Regional Water System” or “RWS” means the Pojoaque Basin Regional Water System to be constructed by the United States Bureau of Reclamation pursuant to the Aamodt Litigation Settlement Act, Pub. L. No. 111-291.
- K. “ROW” means a right-of-way.
- L. “Secretary” means the Secretary of the Interior or an authorized representative of the Secretary.

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M. “Trespass Damages” means all damages suffered by the Pueblo because of the CMR presence, maintenance, and use from the beginning of time to the date of the approval of the ROW for the CMR; provided, however, that Trespass Damages does not include damages, if any, relating to the release of regulated hazardous substances or other dangers on or below the surface of the earth, known or unknown.

#### Section 2. Settlement Amount and Escrow.

A. The County agrees to pay the Pueblo a one-time, lump sum of one hundred eighty five thousand dollars (\$185,000.00) (“Settlement Amount”), if and when the Secretary grants the ROW identified herein. The purpose of the Settlement Amount is to: (1) provide compensation to the Pueblo for the ROW described in Section 3 that is fair and reasonable under the circumstances; (2) finally settle and resolve all Trespass Damages related to CMR 72-I; and (3) contribute to costs to survey County Roads 73 and 74, both of which have perfected ROWs, for the purpose of identifying specific parameters of such ROWs.

B. Within thirty (30) days after the Parties execute this Agreement, they shall select a mutually acceptable Escrow Agent. Within sixty (60) days after selection of the Escrow Agent, the County shall deposit the Settlement Amount with the Escrow Agent. The Escrow Agent shall hold the Settlement Amount until it receives notice from the Department that the Secretary will grant the ROW pursuant to Section 3(C)(iii), or until the Escrow Agent receives notice of termination of this Agreement from either the County or the Pueblo pursuant to Section 4(B)(ii) or Section 4(C)(ii).

1. In the event that the Department gives the Escrow Agent notice pursuant to Section 3(C)(iii) that it will be granting the ROW, the Escrow Agent shall, upon receipt of a copy of the executed ROW, transfer the Settlement Amount directly to the Pueblo according to instructions provided by the Governor of the Pueblo of Tesuque.

11. In the event that the Escrow Agent receives notice of termination of this Agreement, the Escrow Agent shall transfer the Settlement Amount to the County according to the instructions to be provided by the County Manager.

C. As set forth by Tribal Resolution attached hereto as Exhibit B, the Pueblo:

1. Agrees that the Settlement Amount is satisfactory to the Pueblo as compensation for the ROW and any Trespass Damages relating to past use of that ROW;

u. Waives valuation of the ROW;

v. Represents that it has determined that accepting such agreed-upon compensation and waiving valuation is in its best interest; and

IV. Provides a limited waiver of the Pueblo’s sovereign immunity as further described in Section 10(E).

#### Section 3. Obligations of the Parties.

---

## A. County Obligations:

1. Within one (1) year following the execution of this Agreement or the Contributed Funds Agreement, whichever comes last, the County shall at its expense submit to the BIA a ROW application for CMR 72-1. The ROW application shall comply with the requirements of 25 C.F.R. Part 169, including but not limited to, identifying the Pueblo Lands affected by the ROW, maps of definite location for the ROW, and the ownership of any permanent improvements associated with the ROW. The County agrees to prepare, execute, and submit to the BIA such further documents as may be required by the BIA under 25 C.F.R. Part 169. The Pueblo and the County may agree in writing to extend the County's one (1) year deadline for submitting the ROW application to the BIA.

11. The County's ROW application shall incorporate the following specific terms:

1. The proposed term of the ROW shall be for a term of ninety-nine (99) years, with an automatic renewal term of ninety-nine (99) years.

2. The width of the ROW shall be the existing driving surface of the CMR on Pueblo Land as of the date of this Agreement, plus four (4) feet on each side of the existing driving surface ("Standard ROW Width"); provided, however, that where the Standard ROW Width would encroach on Private Land, the actual ROW width shall extend to the boundary of the Private Land.

3. The primary purpose of the ROW shall be operating and maintaining a Public Road, which shall include the right to access to manage vegetation, inspect, maintain and repair equipment, and to conduct such other activities as may be necessary or appropriate to operate and maintain a Public Road. Construction shall be identified as a secondary purpose of the ROW, subject to the provisions of Section 3(D)(vi), below.

11.1. The County shall at its expense survey the CMR and develop an accurate legal description to include in its ROW application to BIA. In addition, the County

shall place survey caps at agreed-upon locations every five hundred (500) feet along both sides of the CMR.

1v. The County agrees to maintain throughout the term of the ROW general liability insurance or, at its option, sufficient self-insurance for the Maintenance of the CMR.

## B. Pueblo Obligations:

1. The Pueblo shall consent to the County's submission of the ROW application and the Secretary's grant of the ROW for CMR 72-1.

11. The Pueblo shall cooperate and reasonably assist the County in filing the County ROW application. The Pueblo agrees to prepare, execute, and submit to the BIA such further documents as may be required by the BIA in support of the County's application.

## Section 3

u1. For instances where a Gap exists between CMR 72-1 and Private Land, the County shall survey the Gaps when it surveys CMR 72-1, and shall include such surveys in the ROW applications described herein.

1v. The Pueblo shall request and the BIA shall agree to a waiver of the requirement that a bond, insurance, or alternative form of security be submitted with the ROW application.

### C. Department Obligations:

1. Nothing in this Agreement shall be construed to restrict the authority of the United States, the Secretary, or the Pueblo under applicable laws or regulations, including, but not limited to, laws and regulations applicable to the review and grant of ROW by the Secretary.

11. The Secretary shall accept the Pueblo's determinations as reflected in this Agreement and the Tribal Resolution attached as Exhibit B, including: (1) that the Settlement Amount is satisfactory, (2) that valuation is waived, and (3) that accepting such agreed-upon compensation and waiving valuation is in the Pueblo's best interest.

111. In the event that the Secretary, after review of the documentation submitted by the County, with the support and consent of the Pueblo, and under his authority and any applicable laws or regulations, decides to grant the ROW, the Department will notify the Parties and the Escrow Agent at least ten (10) days before the Secretary will grant the ROW.

iv. The Department shall not require the County to indemnify the Pueblo or the United States for the grant of any ROW pursuant to 25 C.F.R. § 169.125 (c)(6), because the County is prohibited from doing so under Article IX, Section 10 of the New Mexico Constitution.

### D. ROW and Other Requirements:

1. The Pueblo and the County agree that Federal law, including 25 U.S.C. §§ 323- 328 and 25 C.F.R. Part 169, controls the application, granting and administration of ROWs on Pueblo Lands.

11. In order to expedite the ROW development, submission and review process, the Pueblo and County have agreed to use the ROW template to be provided by BIA. The BIA has been and will continue providing technical assistance to the Pueblo and the County with respect to developing the ROW documents. The Pueblo and the County acknowledge, however, that such technical assistance shall not constitute a grant of, or promise to grant, any ROW.

n1. The Department shall cause the granted ROW to be recorded with the BIA's Land, Title and Records Office as expeditiously as possible.

iv. For any Maintenance carried out on the ROW by the County's contractors, the County shall require that its contractors provide performance bonds and have insurance covering all aspects of the Construction or Maintenance activities to ensure that projects, including any remediation work,

are completed and any damage to land within the exterior boundaries of the Pueblo, or real or personal property is remedied.

v. The County shall not assign the ROW to the State of New Mexico or any other party without the consent of the Pueblo and approval by the Secretary, both as required by Federal law and regulations. Any proposed assignment to the State of New Mexico shall not require additional compensation to the Pueblo, but the County or the State shall bear all costs involving preparation and submission of the ROW assignment application.

vi. The County does not currently have plans to carry out Construction within the ROW. The County will not engage in any Construction, including but not limited to replacing an earthen-driving surface with an asphalt surface, within the ROW except pursuant to a written agreement among the County, the Pueblo, and the BIA.

vn. The Parties acknowledge that the ROW grant for a public road shall not include authority for any utilities or any other uses.

viii. The Pueblo shall not tax any current or future improvements within the ROW; provided, however, that the Pueblo reserves the right to levy gross receipts taxes in accordance with applicable law on any contractors or subcontractors conducting Maintenance or Construction activities. In addition, nothing herein shall affect the applicability of the Pueblo's business license requirement to all contractors and subcontractors performing Maintenance or Construction activities within the ROW, nor shall this Agreement affect the application of any other Pueblo laws and ordinances within the ROW; provided, however, that no such law or ordinance shall operate to terminate or change the terms of any ROW granted to the County.

#### Section 4. Contingencies.

A. No ROW applications shall be submitted for review by the Secretary until the Contributed Funds Agreement for construction of the RWS is executed by the County and the Bureau of Reclamation. The Contributed Funds Agreement shall identify a funding source for the County's contribution.

B. In the event that the County and the Bureau of Reclamation do not timely enter into a Contributed Funds Agreement by April 2, 2018, the following provisions shall apply:

1. The County shall notify the Pueblo that the County and the Bureau of Reclamation have not entered into a Contributed Funds Agreement, which notice shall be given in accordance with Section 11; provided, however, that the County shall have no obligation to provide such notice if the County has executed the Contributed Funds Agreement and it is merely awaiting due execution by the Bureau of Reclamation.

11. The Pueblo shall have sixty (60) from the date of such notice to terminate this Agreement by giving the County and the Escrow Agent notice of such termination, which notice shall be given in accordance with Section 11. Should the Pueblo not timely terminate this Agreement, all other provisions of this Agreement shall continue to be valid and binding.

m. Notwithstanding Section 4(B)(ii), the Pueblo shall not give the Escrow Agent notice of termination, and this Agreement shall not terminate, if

### Section 3

the Bureau of Reclamation provides written notice to the Escrow Agent, with copies to the County and the Pueblo, that the Bureau of Reclamation and the County require additional time to finalize and execute the Contributed Funds Agreement and that

the delay in executing that Contributed Funds Agreement will not delay the date that the RWS is substantially complete.

C. Should the Secretary deny the grant of the ROW, the following provisions shall apply:

1. If the Secretary denies the grant of the ROW pursuant to 25 C.F.R. § 169.24, the Pueblo and the County agree to discuss whether to appeal the decision or modify this Agreement. If they choose to appeal and the appeal is unsuccessful, the Parties shall promptly meet to renegotiate this Agreement. If the Parties are unable to agree on amendments to this Agreement or on some other mutually agreeable outcome, any Party shall have the option to terminate this Agreement within thirty (30) days from receiving notice from the Department that the ROW was denied. The Party choosing to terminate this Agreement will give Notice to the Escrow Agent and to the Parties in accordance with Section 11.

11. If the Secretary denies the grant of the ROW because the Secretary requires any modifications to the application or any measures needed to meet applicable law in order to grant the ROW application, the Parties shall promptly meet to discuss and revise this Agreement or applications, or both, as appropriate, unless the Parties agree otherwise. If the Parties are unable to agree on amendments to this Agreement, applications, or on some other mutually agreeable outcome, any Party shall have the option to terminate this Agreement within thirty (30) days from receiving notice from the BIA that the ROW application required modification. The Party choosing to terminate this Agreement will give Notice to the Escrow Agent and to the Parties in accordance with Section 11.

Section 5. Release of Claims.

A. Release of Claims Against the County. If the Secretary grants the ROW, then on the day that the ROW is granted and upon the Escrow Agent's transfer of the Settlement Funds to the Pueblo in accordance with Section 2(B)(i), the Department and the Pueblo shall irrevocably and forever release and discharge the County, former and current County employees, and former and current County elected officials from any and all claims of Trespass Damages. This release does not include any and all potential claims pursuant to Federal environmental law, including but not limited to liability for hazardous substances disposed on the land, or any other applicable law.

B. Release of Claims Against the Department and the United States. If the Secretary grants the ROW, then on the day the Secretary grants the ROW and upon the Escrow Agent's transfer of the Settlement Funds to the Pueblo in accordance with Section 2(B)(i), the Pueblo and the County agree to irrevocably and forever release and discharge the United States, the Department, and former and current Department employees from any and all surface trespass claims, known or unknown, at law or in equity related to the CMR from the beginning of time to the date of the approval of the ROW for the CMR. The Pueblo also hereby waives, releases, and covenants not to sue the United States in any administrative or judicial forum for any alleged harms or violations, including any breach of the trust responsibility of the United States to the Pueblo, related to surface trespass claims for the CMR, negotiation and entry by the Department into this Agreement, from the beginning of time to the date of the grant of the ROW for the CMR.

C. Release of Claims Against the Pueblo. If the Secretary grants the ROW, then on the day that the Secretary grants the ROW and upon the Es-

crow Agent's transfer of the Settlement Funds to the Pueblo in accordance with Section 2(B)(i), the County agrees to inevocably and forever release and discharge the Pueblo, former and cunent Pueblo employees, and fo1mer and cmTent Pueblo elected officials from any and all claims, known or unknown, at law or in equity related to the CMR from the beginning of time to the date of the approval of the ROW for the CMR.

Section 6. Reservation of Rights, Compromise Discussions, No Admission of Liability.

A. In the event a Paity tenninates this Agreement pursuant to Section 4, the Pa1lies expressly reserve all rights and claims.

B. In the event a Paity terminates this Agreement pursuant to Section 4 and there is subsequent litigation concerning the CMR, this Agreement shall be regarded as inadmissible compromise negotiations under Rule 11-408 NMRA and Federal Rule of Evidence Rule 408; provided, however, that this Agreement may be admitted for the sole purpose of enforcing the te1ms of the Agreement, including to challenge any claims by any Party that a claim asse1led against it is barred or waived.

C. This Agreement shall not constitute or be construed as an admission of liability by any Patty or as an admission of violation of any law, rule, regulation or policy by any Patty. This Agreement also shall not constitute or be construed as an admission or denial by any Pat1ly with respect to any factual or legal allegation or issue with respect to the CMR.

Section 7. Governing Law.

This Agreement shall be governed by the laws of the United States.

Section 8. Merger, Amendments, Rules of Construction, Successors and Assigns.

This Agreement: (a) fully states the agreement between the Pai1ies; (b) may be amended only by written amendment signed by all Patties; (c) shall not be construed against any Patty as the drafter of the Agreement; and (d) shall be binding on and inure to the benefit of the Pai1ies' successors and assigns.

Section 9. Representations.

The undersigned represent and watnnt that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

Section 10. Dispute Resolution.

A. If any of the Pmties disagree concerning the interpretation or implementation of any provision of this Agreement, or if any dispute arises out of or relates to this Agreement, or the breach thereof, the disputing Patties shall commence direct good faith negotiations within thirty (30) calendar days concerning the dispute after one (1) Pmtly notifies the other of the dispute in writing.

B. If the Pmties are unable to resolve a disagreement within sixty (60) calendar days of their first meeting on the subject, the Patties shall promptly

### Section 3

refer the disagreement to a single mediator upon whom the Parties can agree. The Pueblo, the Department and the County shall share the costs of the mediator equally. If the Parties are unable to agree upon a mediator, or if they are unable to resolve the disagreement within sixty (60) calendar days of its referral to the mediator, or within any other time interval on which the Parties unanimously agree, the Pueblo and County may have recourse to any legal or equitable remedies available to them in Federal court.

C. The Pueblo and the County acknowledge that while the Department may participate as a Party in the mediation process described above, neither such participation in mediation nor anything else in this Agreement waives, or shall be construed as any waiver of, the sovereign immunity of the United States. Except as provided in Section 5, nothing in this Agreement shall limit any remedies available to the Pueblo or the County pursuant to 25 C.F.R. Part 2, 25 C.F.R. Part 169, the Administrative Procedure Act, or any other applicable Federal law.

D. If after the Pueblo and the County fail to resolve the dispute by mediation, there is still an unresolved controversy, claim, or dispute arising from or relating to this Agreement, or breach thereof, the Pueblo and the County agree that such dispute shall be brought before a court of competent jurisdiction. In the absence of the United States, the Pueblo and the County each agree not to raise F.R.C.P. Rule 19 as a defense to any such lawsuit.

E. The Pueblo waives its sovereign immunity only as to suits limited to interpretation or enforcement of this Agreement brought in a court of competent jurisdiction. Attached hereto as Exhibit B is a Resolution of the Pueblo approving this Agreement, including the limited waiver of sovereign immunity provided herein. The County's sovereign immunity is waived as to actions to interpret or enforce this Agreement in accordance with NMSA 1978, Section 37-1-23.

F. The Pueblo and the County acknowledge that nothing in this Agreement confers jurisdiction on any non-Federal court to interpret Federal Law regarding health, safety, or the environment, or to otherwise determine the duties of the United States or other parties pursuant to such Federal law, or to conduct judicial review of any Federal agency action.

Section 11. Notices.

A. Any notice, demand, request, or information authorized or related to this Agreement shall be deemed to have been given if mailed by certified or registered mail, return receipt requested, hand delivered, or faxed as follows:

To The County:

County Manager Santa Fe County

P.O. Box 276

Santa Fe, New Mexico 87504 Fax: 505.995.2740

With a Copy To:

County Attorney Santa Fe County

P.O. Box 276

Santa Fe, New Mexico 87504 Fax: 505.986.6362

To the Pueblo of Tesuque: Rt. 42, Box 360-T  
Santa Fe, New Mexico 87506

To the Department of the Interior:  
Regional Director, Southwest Region 1001 Indian School Road NW Albuquerque, NM 87104  
Fax: 505.563.3101

With A Copy To:  
Office of the Solicitor, Southwest Region 505 Marquette Ave NW  
Suite 1800  
Albuquerque, NM 87102  
Fax: 505.248.5623

Notice shall be deemed to have been given based upon the method of delivery, as follows: notices sent by facsimile or hand delivered shall be deemed given on the date of delivery, as evidenced, with respect to facsimile delivery, by a printout showing successful transmission of all pages included in the notice; notices sent by mail shall be deemed given three (3) business days after the notice is mailed with postage prepaid.

B. A Party may change the persons to whom or addresses at which notice shall be given by giving all other Parties notice of the change in accordance with this Section.

#### Section 12. No Third Party Beneficiary Rights.

This Agreement is not intended to and shall not be construed to give any Third Party any interest or rights (including, without limitation, any Third Party beneficiary rights) with respect to or in connection with any agreement or provision contained herein or contemplated hereby.

#### Section 13. Private Claims Unaffected.

The Parties acknowledge and agree that this Agreement and the subsequent grant of the ROW do not waive, satisfy, or discharge claims (if any) at law or in equity that Third-parties may have against the County, the Pueblo, or the United States related to the CMR or access to Private Land.

#### Section 14. Contingency of Federal Appropriations.

The expenditure or advance of any money or the performance of any obligation of the United States under this Agreement shall be contingent upon appropriation or allotment of funds. No liability shall accrue to the United States in case funds are not appropriated or allotted.

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