

SUMMARY:

On October 10, 2006, the BCC granted Preliminary and Final Plat and Development Plan approval for Phase I of the Ponderado Estates Subdivision to create one (1) lot and Preliminary Plat and Development Plan approval for Phase II which consisted of the remaining 13 lots within the residential subdivision.

On June 10, 2008, the BCC granted Final Development Plan and Plat approval of Phase II for the remaining 13 lots as well as a Variance to allow Driveway access off a Minor Arterial Road for two lots.

Article V, Section 5.3.6 of the County Land Development Code states, "An approved or conditionally approved preliminary plat shall expire twenty-four (24) months after its approval or conditional approval. Prior to the expiration of the preliminary plat, the subdivider may request, from the Board, an extension of the preliminary plat for a period of time not exceeding thirty-six (36) months."

Article V, Section 5.4.6 of the Code states, "An approved or conditionally approved final plat, approved after July 1, 1996 shall be recorded within twenty-four (24) months after its approval or conditional approval or the plat shall expire. Upon request by the subdivider, an additional period of no more than thirty-six (36) months may be added to the expiration date by the Board."

The Preliminary and Final Plat & Development Plan for the Ponderado Estates Subdivision expired on June 10, 2010.

On December 13, 2011 the Board of County Commissioners adopted Resolution No. 2011-193 which found the existence of severe economic conditions and suspended enforcement of specified provisions of Article V of the Land Development Code that concern expiration of Master plans, preliminary plats and final plats.

On December 13, 2011, the Board of County Commissioner also adopted Ordinance No. 2011-11, which states "the Board of County Commissioners ("the Board") may suspend provisions of Article V, Sections 5.2.7, 5.3.6, and 5.4.6 of the Code upon a finding of economic necessity, which is defined in terms of a score of 100 or less on the Conference Board's Leading Economic Index® for the United States for any quarter, and for three years following any such event, and the Board recognizes that these conditions are present and desires to temporarily suspend the enforcement of those sections of Article V that set forth expiration of master plans preliminary plats and final plats for two years pending an economic recovery."

At the time of Plat Approval for Phase II of the Ponderado Subdivision expired, the Conference Board's Leading Economic Index® (LEI) score was 97. As of July of 2012 the LEI was 95.8.

The Applicants state that due to the slow economy they have not been able to move forward with the subdivision. Their hope is that the economy will improve within the next couple of years and they will be able to put in the infrastructure and finish the subdivision. Therefore, the Applicants

are requesting a 24-month time extension that would render the preliminary and final plat and development plan approval valid until September 11, 2014.

This Application was submitted on July 27, 2012.

Growth Management staff has reviewed this Application for compliance with pertinent Code requirements and finds the project is in compliance with County criteria for this type of request.

APPROVAL SOUGHT: Approval of a 24-month time extension of the Preliminary and Final Plat and Development Plan in accordance with Article V, Sections 5.3.6 and Sections 5.4.6 of the County Land Development Code.

GROWTH MANAGEMENT AREA: El Centro, SDA-2

HYDROLOGIC ZONE: Basin Hydrologic Zone, minimum lot size per Code is 2.5 acres per dwelling unit with water restrictive covenants.

FIRE PROTECTION: Agua Fria Volunteer Fire District

WATER SUPPLY: Shared Well System

LIQUID WASTE: Individual on-site Septic Systems

VARIANCES: No

AGENCY REVIEW: None

STAFF RECOMMENDATION: **Approval of the request for a 24-month time extension of the approved Preliminary and Final Plat and Development Plan for the Ponderado Estates Subdivision Phase II.**

EXHIBITS:

1. Letter of request
2. Site Plans
3. Vicinity Map
4. June 10, 2008 BCC Staff Memo
5. June 10, 2008 BCC Minutes
6. Resolution No. 2011-193
7. Ordinance No. 2011-11

7/25/2012

Judy Ross and Ted Wegner

444 Rutherford Avenue
Redwood City, CA 94061
Phone: 650-321-8878

► **Vicki Lucero, Manager**
Development Review Division

P.O. Box 276-102
102 Grant Avenue
Santa Fe, NM 87504-0276

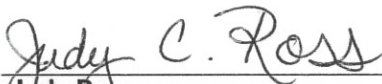
Dear Ms. Lucero:

The purpose of this letter is to request a temporary retroactive suspension of enforcement of Article V, Sections 5.2.7, 5.3.6, and 5.4.6 for Ponderado Estates Phase 2B, (EZ Case DL#06-4311) and to grant a 24 month extension of the filing period. Due to the dramatic downturn in the economy, all the developers in the Hager Road corridor have been severely impacted financially, and the financial surety for Hager Road (also known as Los Suenos Trail Extension) is not feasible at this time. Suerte del Sur, who is contractually committed to participate in the funding of Hager Road, was granted a 36 month extension of the filing period on April 13, 2010.


Phase 2B consisting of 14 lots was approved by a vote of 4 to 1 of the Santa Fe Board of County Commissioners (BCC) on June 10, 2008 (BCC minutes recorded on July 28, 2008), and Phase 1 and 2A were filed in the County of Santa Fe on April 1, 2009. Attached is the Phase 1 and 2A plat which shows the grayed section that comprises Phase 2B. A request to grant an extension was submitted to Shelley Cobau on December 6, 2010, and that email is attached..

Ponderado is still committed to all of the conditions of approval, and seeks only the extension of the filing period.

Thank you,

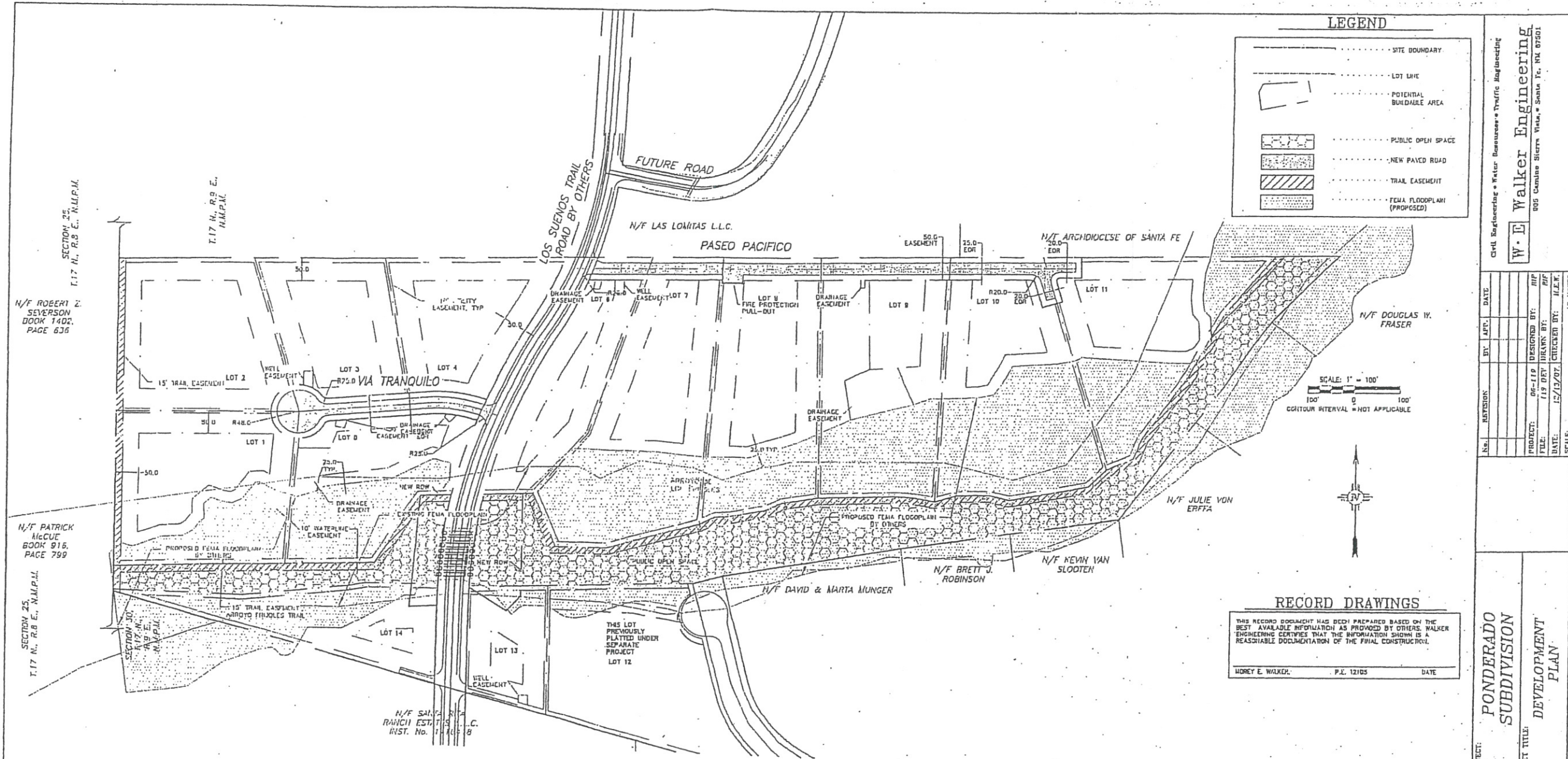


Judy Ross
President, Ponderado LLC



Ted Wegner
Vice President, Ponderado LLC





DEVELOPMENT PLAN FOR PONDERADO SUBDIVISION

Dedication and Affidavit:
 Know all persons by these present that the undersigned owner has caused this final development plan to be prepared. All that appears on this plan is made with the free consent and in accordance with the desires of the undersigned owner. This development lies within the planning and platting jurisdiction of the County of Santa Fe, New Mexico.

Owner:

 Judy Ross or Ted Wegner, Owners

The foregoing was sworn, acknowledged and subscribed before me by the owner(s).
 this _____ day of _____ 200
 Notary Public _____
 My Commission Expires on _____

COUNTY APPROVALS

Approved by the Board of County Commissioners at their meeting of _____

Chairman _____ date _____

Attested by _____
 County Clerk _____ date _____

Approved by _____
 County Land Use Administrator _____ Date _____

Approved by _____
 County Fire Marshal _____ Date _____

Approved by _____
 County Public Works Director _____ Date _____

PROJECT SITE DATA

Total Acreage = 43.0± acres
 Total Number of Lots = 14
 Minimum Lot Size = _____ acres
 Maximum Lot Size = _____ acres
 Average Lot Size = _____ acres

The lots will be utilizing shared wells.

Fire protection is provided by a 30,000 gallon tank, a hydrant and a fire suppression system for each house.

Waste water is disposed by individual septic systems.

Roads are to be private and will be maintained by the Ponderado Homeowners Association.

Storm drainage will be controlled by the use of two regional ponds.

RECORD DRAWINGS

THIS RECORD DOCUMENT HAS BEEN PREPARED BASED ON THE BEST AVAILABLE INFORMATION AS PROVIDED BY OTHERS. WALKER ENGINEERING CERTIFIES THAT THE INFORMATION SHOWN IS A REASONABLE DOCUMENTATION OF THE FINAL CONSTRUCTION.

WOREY E. WALKER P.E. 12105 DATE _____

W. E. Walker Engineering
 905 Camino Sierra Vista, Santa Fe, NM 87501
 CIVIL Engineering • Water Resources • Traffic Engineering

| | | | |
|-----|----------|----|------|
| No. | REVISION | BY | DATE |
| | | | |
| | | | |
| | | | |

PROJECT: 06-110
 DESIGNED BY: WJF
 FILE: 119 DEY
 DRAWN BY: WJF
 DATE: 12/19/07
 CHECKED BY: H.E.K.
 SCALE: AS NOTED

PROJECT: PONDERADO SUBDIVISION
 SHEET TITLE: DEVELOPMENT PLAN

| | | |
|----------------------|----------|------|
| COUNTY REVIEW | SIGN-OFF | DATE |
| | | |
| DEPARTMENT | | |
| LAND USE PLANNER | | |
| ENGINEER | | |
| S.E.T. WATER COMPANY | | |

SHEET NO. _____

D-1

CASE #506-4310

EXHIBIT
 2

DEDICATION/AFFIDAVIT

KNOW ALL MEN BY THESE PRESENTS, THAT THE UNDERSIGNED OWNER(S), HAVE CAUSED TO SUBDIVIDE THESE LANDS SHOWN HEREON...

THESE LOTS LIE WITHIN THE PLANNING AND PLATTING JURISDICTION OF THE CITY AND COUNTY OF SANTA FE, STATE OF NEW MEXICO.

OWNER: Ted Wagon 9-26-08, Judy Ross 9/26/08

STATE OF NEW MEXICO } COUNTY OF SANTA FE }

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 26th DAY OF SEPTEMBER, 2008.

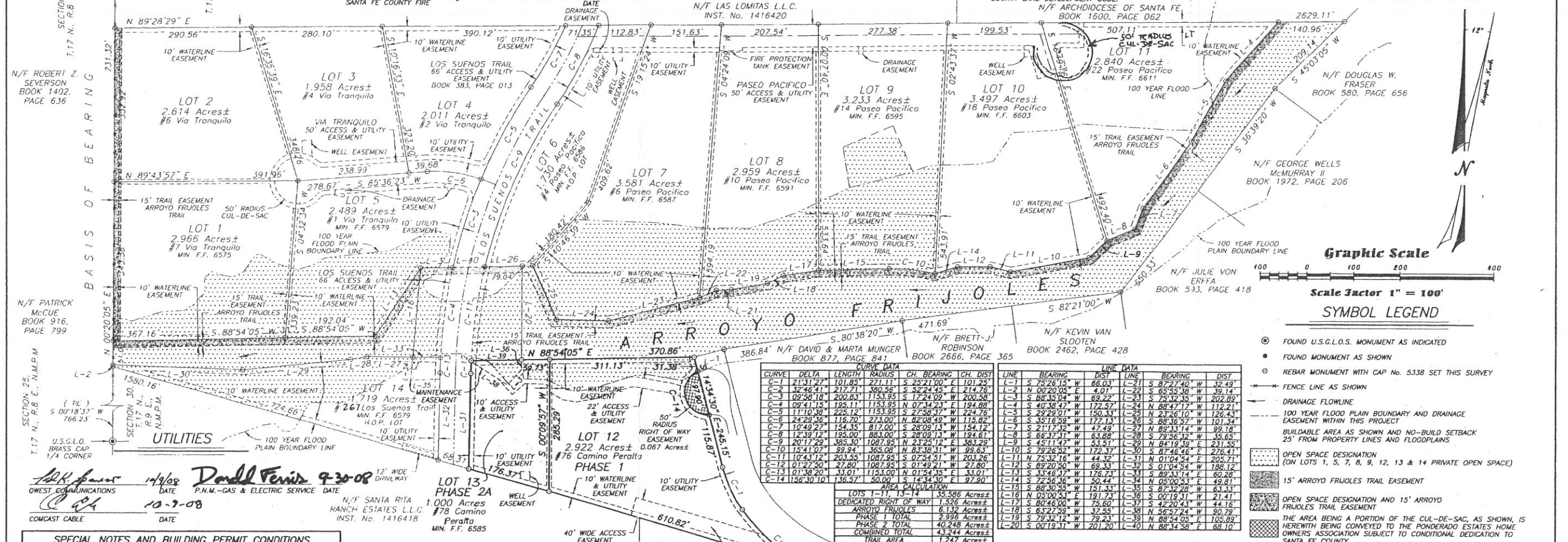
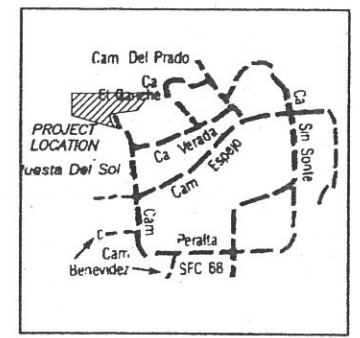
Notary Signature: Bernice A. Alarid, My Commission Expires 11-07-2010

OFFICIAL SEAL: Bernice A. Alarid, Notary Public, State of New Mexico, No. 5338

SANTA FE COUNTY APPROVAL NOTES AND CONDITIONS

Michael Chavez, Santa Fe County Board of Commissioners, Meeting Date 3/2/09. J. P. ... Santa Fe County Land Use Administrator, Date 3/30/09. ... Santa Fe County Fire, Date 3-4-09.

- 1. MAINTENANCE OF ACCESS ROADS AND UTILITY EASEMENTS IS THE RESPONSIBILITY OF THE LAND OWNER/USER... 2. THE APPROVAL OF THIS PLAT DOES NOT CONSTITUTE THE APPROVAL OF ANY FURTHER DEVELOPMENT... 22. (A) FIRE HYDRANT(S) SHALL BE INSTALLED AT THE TIME THE FIRST WATER SERVICE LINE IS INSTALLED ON THIS PROPERTY...



SPECIAL NOTES AND BUILDING PERMIT CONDITIONS: THE INSTALLATION OF AN AUTOMATIC FIRE SUPPRESSION SYSTEM IS REQUIRED FOR ALL NEW HOMES ON ALL LOTS...

CERTIFICATE: I, BERNICE A. ALARID, A NEW MEXICO PROFESSIONAL SURVEYOR NO. 5338, DO HEREBY CERTIFY THAT THIS SUBDIVISION SURVEY PLAT WAS PREPARED FROM AN ACTUAL GROUND SURVEY PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION...

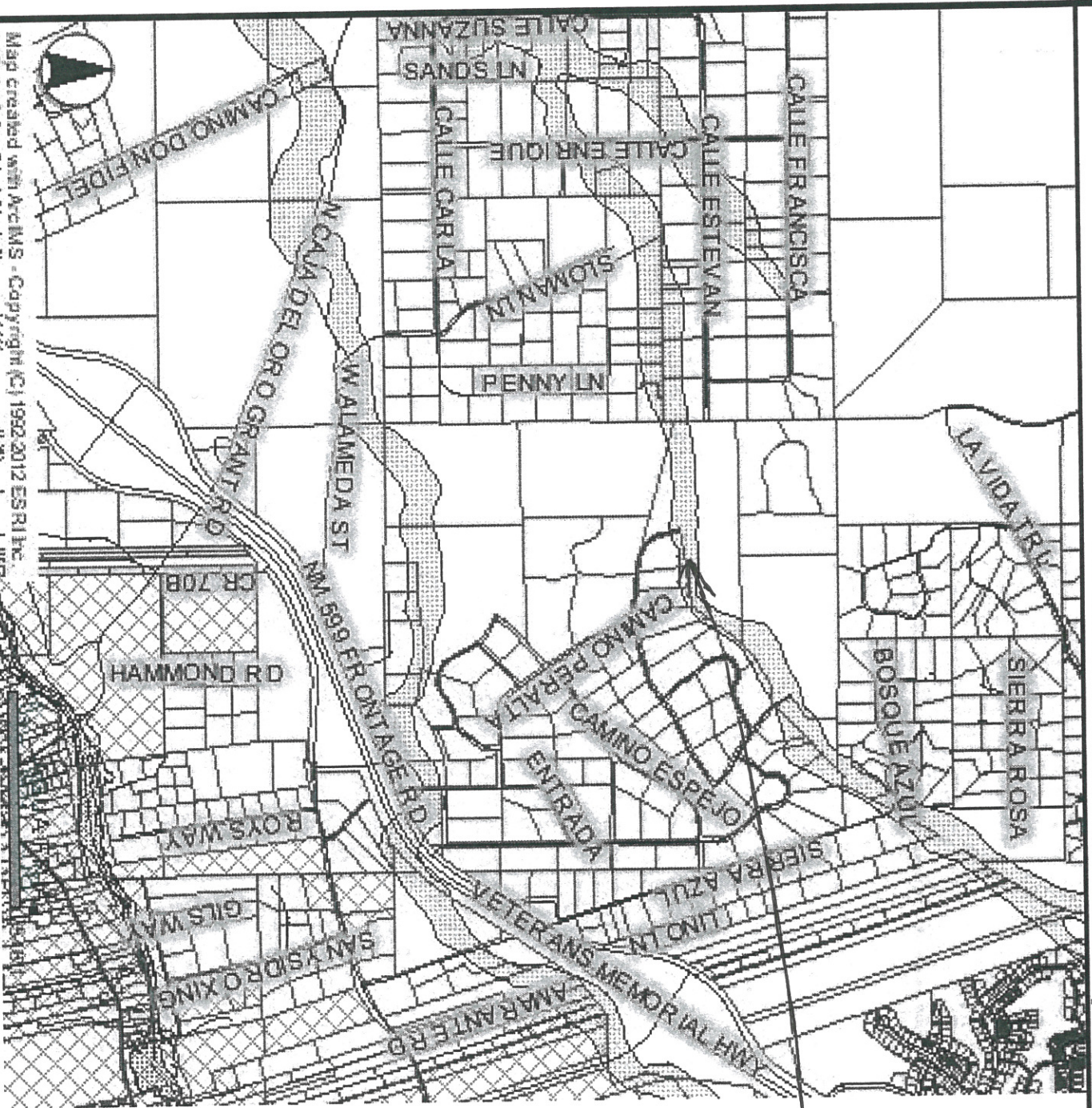


ALARID AND ASSOCIATES, L.L.C. SANTA FE, NEW MEXICO. 1223 ST. FRANCIS DR. 984-1181

COUNTY CLERK: Coedie Montoya, COUNTY CLERK OF SANTA FE COUNTY, N.M. LAND DIVISION OF PHASE 1 & 2A PONDERADO. LOCATED AT THE END OF CAMINO PERALTA, BEING LOT 3 OF ESTATE OF RICHARD M. HAGAR LOT SPLIT...

FILENAME: 06-05-01 DRAWING: 01B3-12.DWG

ArcIMS HTML Viewer Map



Site



Map created with ArcIMS - Copyright (C) 1992-2012 ESRI Inc.

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MEMORANDUM

DATE: June10, 2008
TO: Board of County Commissioners
FROM: Vicente Archuleta, Development Review Specialist II
VIA: Jack Kolkmeier, Land Use Administrator
Shelley Cobau, Development Review Manager
FILE REF.: EZ CASE # V/S 06-4311 Ponderado Subdivision Phase II Variance and Final Development Plan and Plat

ISSUE:

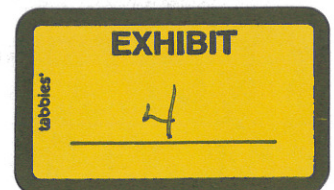
Linda Tigges, agent, for Ponderado Subdivision (Ted Wegner and Judy Ross) request Final Plat approval of Phase II of the Ponderado Subdivision which will consist of 13 residential lots and 1 lot dedicated as open space on the 40.249 acres more or less and a variance of Section 3.5 (Road Requirements and Standards) of the Extraterritorial Subdivision Regulations (ESR) to allow driveway access for 2 lots on a minor arterial road.

The proposed subdivision is located at the end of Camino Peralta, off County Road 68, which is north of NM State Road 599, within Section 30, Township 17 North, Range 9 East (5-Mile EZ District 2).

SUMMARY:

On May 8, 2007 the EZC met and recommended approval of a variance for Lot 14 to allow access to a minor arterial road and denial for Lot 13, subject to staff conditions (see May 8, 2008 EZC Meeting Minutes as Exhibit "I").

On December 14, 2006, the EZC met and tabled this case so the Applicant could work with the Affordable Housing and Land Use staff, the Applicant was directed reduce access points to Hager Road (Los Suenos Trail) by changing the lot configuration (see December 14, 2006 EZC meeting minutes as Exhibit "H").



R

BCC

Ponderado Subdivision Phase II

June 10, 2008

Page 2

On October 10, 2006 the BCC granted approval for Final Development Plan and Plat for Phase I of the Ponderado subdivision, which consisted of 2 lots (one 2.996 acre residential lot and one 40.249 acre lot) and Preliminary Development Plan approval for Phase II which consists of the remaining 14-lots (13 residential lots and 1 dedicated as open space) on 40.249-acres subject to staff conditions (refer to October 10, 2006 BCC Meeting minutes attached as Exhibit "G").

On August 16, 2006 the EZC met and recommended Preliminary and Final Development Plan and Plat approval for Phase I and Preliminary Development Plan approval for Phase II of the 15 lot (14 residential lots and 1 lot dedicated as open space) residential subdivision subject to staff's conditions (see August 16, 2006 EZC Meeting Minutes as Exhibit "F").

Phase I consisting of one lot located on the far southeastern parcel (Lot 12 -2.996-acres more or less) which will use Camino Peralta as access was approved at the October 10, 2006 BCC Meeting. Phase II will consist of the remaining lots and will be developed in coordination with the construction of Hager Road (also known as Los Suenos Trail).

The Applicant requests Final Development Plan and Plat approval for Phase II consisting of the remaining 14 lots on 40.249-acres. The entire subdivision consists of 15 lots (14 residential lots and 1 lot dedicated as open space), which includes 2 affordable lots meeting the County's Affordable Housing Ordinance. The lots vary in size from .993-acres to 3.581-acres.

The property is located within the Basin Fringe Hydrologic Zone, which allows one dwelling unit per 2.5-acres with proof of adequate water and .25-acre feet water restrictions.

This request also includes a variance of Section 3.5 (Road Requirements and Road Standards) of the Extraterritorial Subdivision Regulations (ESR) to allow driveway access for Lot 13 and Lot 14 on a minor arterial road.

Section 3.5.1.F.1 states: "Where a proposed subdivision or development contains lots abutting or adjacent to a major or minor arterial, it shall be planned so that lots do not front on the arterial. The subdivision or development shall be laid out to have a minimum number of road or street intersections with arterials; intersections and driveways shall meet the standards of 3.5.8 of these regulations.

The Applicant has addressed the variance criteria and staff has responded to the Applicant's comments.

VARIANCE CRITERIA:

- 1) That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;

A) Applicant response: As shown on the site plan, the property is bisected east-west by the

Arroyo Frijoles and north-south by Hager Road (Los Suenos Trail). This creates four separate parcels, the two on the south side of the arroyo being small and able to accommodate a driveway, but not a road. This and the topographic conditions make access to these two lots by any other method than a driveway off Hager Road (Los Suenos Trail) impractical and also inconsistent with the TAP plan.

B) Staff response: The presence of Arroyo Frijoles and the roadway alignment preclude placement of alternate access to Lot 14. This could be considered as a special condition peculiar to Lot 14. As for Lot 13, access can be accomplished by an easement through Lot 12 which accesses off of Camino Peralta.

2) A literal interpretation of the provisions of the Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Ordinance; and

A) Applicant response: The Applicant would be deprived of rights commonly enjoyed by other properties in the same district, which have less difficult terrain and access to Hager Road (Los Suenos Trail) and other outlets through spur roads or by other means.

B) Staff response: A literal interpretation would preclude placement of a driveway to Lot 13 and Lot 14.

3) There are special conditions and circumstances which are not the result of actions by the applicant and that the hardship is not self imposed or self created; and

A) Applicant response: The location of Hager Road (Los Suenos Trail) was defined by the Arterial Task Force in 1999. The lot configuration was determined by the Estate of Richard M. Hager in 1998.

B) Staff response: Due to the alignment of Hager Road (Los Suenos Trail) and Arroyo Frijoles, combined with the lot configuration proposed, alternate access to Lot 14 is not possible. The hardship is partially self-imposed or self-created by the way the lots are laid out. Lot 13 can be accessed through an easement from Camino Peralta.

4) Granting the variance requested will not confer on the applicant any special privilege that is denied by the ordinance to the owners of other lands, structures or buildings in the same district; and

A) Applicant response: No privilege is conferred that is denied to owners of other lands which have more feasible connection to Hager Road (Los Suenos Trail) and other outlets by means of spur roads.

- B) Staff response: Granting the variance requested would confer the applicant special privileges and would set a precedent for future developments along Hager Road (Los Suenos Trail) and throughout the area. Driveway access to minor arterials is specifically prohibited by Section 3.5 (Road Requirements and Standards) of the Extraterritorial Subdivision regulations (ESR), however, due to site configuration, Lot 14 does not have alternate access.**
- 5) The applicant demonstrates that the request is a minimum easing of the Ordinance requirements, making possible the reasonable use of the land, building or structure; and
- A) Applicant response: The driveway will meet the design criteria as set forth in the Santa Fe Extraterritorial Subdivision Regulations.
- B) Staff response: The Applicant has not demonstrated that the request for access to Lot 13 is a minimum easing of the Ordinance requirements. Lot 14 does not have an alternate access.**
- 6) The granting of the variance is in harmony with the general interest, the general purpose and intent of the Ordinance, and is not injurious to the neighborhood or otherwise to detrimental to the public welfare; and
- A) Applicant response: The lots enable the applicant to provide larger and more beautiful affordable housing lots. Santa Fe County Public Works staff has approved the location of the driveways and have agreed that the driveways will meet the level of service and projected use criteria as set forth in Santa Fe Extraterritorial Subdivision Regulations, page 51. In addition, twenty year traffic projections indicate safe access is achievable (see Santa Fe County Public Works memos attached as Exhibit "C").
- In addition, allowing driveways at the proposed location minimizes the impact on the terrain and visual aspects of the area that might otherwise be caused by longer driveways and additional roads and arroyo crossings.
- B) Staff response: The Applicant has not proven that the variance for Lot 13 is in harmony with the general interest, the general purpose and intent of the Ordinance, and is not injurious to the neighborhood or otherwise to detrimental to the public welfare. In accordance with the Extraterritorial Subdivision Regulations (ESR), subdivision streets shall be laid out to have the minimum number of intersections with highways and arterials, consistent with sound engineering practice and the access needs for emergency and service vehicles.**
- 7) That the variance will not set a precedent which conflict with the policies of the Extraterritorial Plan and this Ordinance: and

- A) Applicant response: There is no conflict with the policies of the Extraterritorial Plan or the TAP plan which clearly support protection of the environment and from unnecessary grading, arroyo crossing and solutions that make ecological sense.
- B) Staff response: Granting the variance requested would set a precedent for future developments along Hager Road (Los Suenos Trail)and throughout the area.**
- 8) The proposed variance will not permit a use not generally or by special exception permitted in the district involved or any use expressly or by implication prohibited by the terms of this Ordinance; and
- A) Applicant response: The request to allow driveway access does not allow a prohibited use. It is still a residential use meeting density requirements.
- B) Staff response: The proposed variance would permit a use not generally permitted in the district involved by allowing direct driveway access off minor arterials. Staff believes these entrances should be minimized inasmuch as possible.**
- 9) No non-conforming use of neighboring lands, structures or structures or buildings in other districts has been or shall be considered grounds for the issuance of a variance; and
- A) Applicant response: No non-conformances is given as grounds for this proposed variance.
- B) Staff response: The Applicant is not using any non-conforming uses in the district as justification for granting of the variance.**
- 10) The applicant would suffer an unnecessary hardship if the variance requested were denied.
- A) Applicant response: Without the variance, the applicant would be required to further disturb fragile terrain by building longer driveways, additional roads, or other additional arroyo crossings.
- B) Staff response: If the variance request is denied, the Applicant may re-configure the lots and establish an access easement to Lot 13. Lot 14 could be eliminated, however the applicant received Preliminary Plat approval from the BCC on October 10, 2006 which supports the current lot configuration.**

The application was reviewed for the following:

Existing Conditions

The land slopes from north to south to the Arroyo Frijoles which runs through the development.

To the north and south are Lots 1 and 2 of the Hager Estates, to the east is Puesta Del Sol Subdivision, to the south is Lot 5 of the Hager Estates and the Terra Bella Subdivision and to the west is the Pinon Hills/Alameda Ranchettes Subdivision.

The property is covered with grass, junipers and sparse pinon trees.

Access/Traffic

Access to the property will be from the proposed Hager Road (Los Suenos Trail). The Applicant has contributed toward the design and construction of Hager Road (Los Suenos Trail), the final design is under review by the County.

The Applicant's plans show that the slope of roads do not exceed 5% grade and they can meet Roads shall meet the minimum County standards for local roads. Lots 6 and 7 will be required to share a single driveway access from Paseo Pacifico.

A traffic impact analysis has been submitted for review. The report includes the impact of the subject property as well as the other Hager lots, the Suerte de Sur development and existing development within the area. Impact on the future Hager Road (Los Suenos Trail) is reviewed as well as on other adjacent roads (see SFC Public Works letter as Exhibit "C").

Water

Water will be provided from four shared wells. A geohydrological report has been submitted showing a 100 year supply of water. Water restrictive covenants of .25 acre-feet of water per year per lot shall be recorded with the Final Plat (see SFC Hydrologist Letter as Exhibit "A").

A copy of the shared well agreement has been submitted for review, and shall be approved and recorded with the subdivision plat.

Fire Protection

The development is located within the Agua Fria Volunteer Fire district.

A draft fire hydrant, fed by a 30,000 gallon water storage tank will be located on the boundary between lots 7 and 8. Automatic Fire Protection Sprinkler System and an Automatic Fire Protection Alarm System shall be required within each residence; this shall be noted on the plat of survey and in the subdivision covenants and disclosure statement as required by the County Fire Marshal. Required Fire Alarm systems shall be in accordance with NFPA 72, National Fire Alarm code, for given type of structure and/or occupancy use. The Applicant shall comply with all other Fire Marshal requirements.

Liquid and Solid Waste

Each lot owner will be required to obtain and install a liquid waste system approved by NMED. A percolation test has been prepared by a professional engineer indicating that conventional septic tanks and leach field systems are suitable for this development.

The Applicant has submitted a letter from Waste Management Inc. to remove solid waste from the development.

Terrain Management/ Storm Water Retention

Building sites are adequate for home locations, septic tanks and leach fields. Buildable area slopes are less than 15%. Slopes in excess of 20% are located along the drainages, which are to be undisturbed.

A portion of the proposed development is located within a defined 100-year flood plain as designated on the FEMA, Flood Insurance Rate Maps. The area within the floodplain will be designated as open space.

Development will not occur within 50 feet from the 100 year floodplain boundary line, and minimum lowest floor elevations are provided.

Each individual lot will require an on-site detention or retention pond and water harvesting at time of building permit.

Archeology/Open Space

An archeological survey has been submitted for review. Five check dams were found none of which needed further study. The dams were simple construction, made of quartzite cobbles piled up to decrease erosion and hold water. Many of the small dams have collapsed or have filled up, serving the purpose for which they were constructed. No other artifacts were found with the check dams. No other significant sites were found on the property.

The EZO regulations require that a minimum of 30% of the tract be preserved in permanent open space. Areas of open space will be designated as accessible to residents of the subdivision and members of the homeowners association.

Homeowners Association:

The homeowner documents address use and development of the lots, including water restrictions, ownership and maintenance of roads, common areas and facilities, and solid waste removal.

Affordable Housing:

The Affordable Housing Plan has been reviewed and the proposed plan meets the requirements of the Affordable Housing Ordinance (2006-02) and Regulations (2006-99). The affordable lots shall be identified on the plat of survey.

REQUIRED ACTION:

The BCC should review the attached material and consider the recommendation of staff, take action to approve, deny, approve with conditions or table for further analysis of this request.

RECOMMENDATION:

Section 3.5.1.F.1 states: "Where a proposed subdivision or development contains lots abutting or adjacent to a major or minor arterial, it shall be planned so that lots do not front on the arterial. The subdivision or development shall be laid out to have a minimum number of road or street intersections with arterials; intersections and driveways shall meet the standards of 3.5.8 of these regulations." Staff recommends **approval** of the variance request for driveway access from Los Suenos Trail for Lot 14, because alternative access is not available and Staff recommends **denial** of the variance request for direct access for the driveway to Lot 13, which can take access off Camino Peralta within an easement through Phase One, Lot 12.

Should the BCC recommend approval of the variance request and further approve the Final Plat and Final Development Plan, staff recommends the following conditions:

1. Lot 13 shall take access off Camino Peralta within an easement through Phase One, Lot 12.
2. Compliance with applicable review comments from the following:
 - a) State Engineer.
 - b) State Environment Dept.
 - c) State Department of Transportation
 - d) County Hydrologist
 - e) Development Review Director
 - f) County Fire Marshal
 - g) County Public Works
 - h) County Technical Review
 - i) Soil and Water District
 - j) Santa Fe County Affordable Housing
3. Lots 6 and 7 shall share a driveway as required by Article III, Section 4.4.3.a of the Land Development Code.
4. A public trail easement 15 feet in width along the west property line as approved by Santa Fe County Open Space and Trails shall be identified on the Plat as required by Ordinance No. 2007-01 Tres Arroyos del Poniente Special Review District (TAP).
5. Final homeowner documents (covenants, by-laws, articles of incorporation, disclosure statement) subject to approval by staff and shall include but not limited to the following:
 - a) Water Restrictions shall be .20 acre-feet per lot
 - b) Shared Well Agreement
 - c) Water conservation measures shall include water storage from roof drainage.
 - d) Maintenance of roads and drainage facilities.
 - e) Maintenance of septic systems.
 - f) Solid waste removal by the Homeowners Association if the homeowner is not complying.
 - g) Affordable Lots.

- h) Floodplain obstructions, minimum lowest floor elevations.
- 6. Each lot is required to install residential fire suppression sprinkler systems and alarms, as required by the Urban Wildland Interface Code Ordinance No. 2001-11 and this shall be noted on the plat.
- 7. All redline comments shall be addressed.
- 8. Applicant shall address the following issues from the Santa Fe County Hydrologist prior to:
 - a) All water will be supplied by shared wells, each supplying at least three lots.
 - b) Submit a copy of the Water Quality Analysis from NMED to fulfill the water quality requirement for future wells.
- 9. Applicant shall identify affordable lots on plat of survey and disclosure statement as required by Ordinance No.2006-2.
- 10. The Applicant must record water restrictive covenants simultaneously imposing .20-acre ft. per year per lot as required by Article VII, Section 6.6.2 of the Land Development Code. Water meters for each subject parcel must be installed to monitor water use. Water consumption reports must be submitted to the County Hydrologist by January 31st of each year and submitted to the Office of the State Engineer on a quarterly basis. The Applicant shall add this responsibility to the Director's duties listed in the Well Sharing Agreement.
- 11. Trails shall be developed within common open space around perimeter of subdivision.
- 12. Submit Engineers cost estimate and acceptable financial surety for completion of required improvements as approved by staff. Upon completion, submit certification by registered engineer that improvements have been completed in conformance with approved development plans.
- 13. A financial guarantee is required for the full cost of Los Suenos Trail (Hager Road) construction prior to the plat being recorded.
- 14. Submit solid waste fees in conformance with the ESR.
- 15. Common ponds for road drainage to be located in easements. Calculations for size of culverts must be provided to support culvert design. These calculations must be provided for review and approval prior to recordation of the final plat.
- 16. No building permit shall be issued on any lot until Los Suenos Trail (Hager Road) connection is complete and accepted by Santa Fe County.

17. Lot 13 minimum net lot size shall be at least 1 acre or a community water system will be required as per Article V, Section 9.3.1, Table 5.1.
18. A conditional letter of map revision (CLOMR) is currently under review by FEMA for the Hager Road (Los Suenos Trail) crossing of the Arroyo del Los Frijoles. Upon completion of construction a Letter of Map Revision must be submitted to the County and to FEMA.
19. The applicant must address all redline comments by Staff shown on the plat of survey and terrain management plan. These plans may be picked up from Vicente Archuleta, Development Review Specialist within the Land Use Dept. These plans must be resubmitted with the Mylar prior to recordation.

ATTACHMENTS:

- Exhibit "A" - Reviewing Agency Responses
- Exhibit "B" - Letter of Request/Variance Review Criteria
- Exhibit "C" - Santa Fe County Public Works Memo
- Exhibit "D" - Developer's Request/Site Plan
- Exhibit "E" - Vicinity Map
- Exhibit "F" - August 16, 2006 EZC Meeting Minutes
- Exhibit "G" - October 10, 2006 BCC Meeting Minutes
- Exhibit "H" - December 14, 2006 EZC Meeting Minutes
- Exhibit "I" - May 8, 2008 EZC Meeting Minutes

~~CHAIRMAN SULLIVAN: With the two-foot designation. Okay, we have a motion.~~

~~COMMISSIONER CAMPOS: Second.~~

~~CHAIRMAN SULLIVAN: Seconded by Commissioner Campos. It was moved by Commissioner Montoya. Any discussion on that motion?~~

~~The motion to approve Ordinance 2008-10 passed by unanimous [5-0] voice vote with Commissioners Anaya, Campos, Montoya, Vigil and Sullivan all voting in the affirmative.~~

~~MS. COBAU: Thank you very much, Mr. Chair and members of the Commission.~~

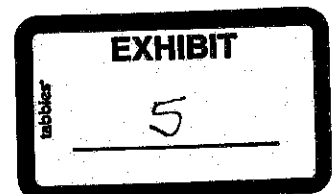
~~CHAIRMAN SULLIVAN: Thank you, Ms. Cobau, for putting that together and for putting that comparison together for us. It was very helpful.~~

- XV. A. 5. **EZ CASE # S 06-4311 Ponderado Subdivision Phase II Ponderado Subdivision (Ted Wegner and Judy Ross), Applicants, Tigges Planning Consultants (Linda Tigges), Agent, Request Final Development Plan and Plat Approval of Phase II for a 14-Lot Residential Subdivision on 43.245 Acres, More or Less and a Variance Of Section 3.5 of the Extraterritorial Subdivision Regulations (ESR) to Allow Driveway Access for Two Lots on a Minor Arterial Road. The Proposed Subdivision is Located at the End of Camino Peralta, off County Road 68, Which is North of NM State Road 599, Within Section 30, Township 17 North, Range 9 East (5-Mile EZ District). Vicente Archuleta, Case Manager**
[Exhibit 1: Letters of Concern]

VICENTE ARCHULETA (Case Planner): Thank you, Mr. Chair. On May 8, 2008, the EZC met and recommended approval of a variance for Lot 14 to allow access to a minor arterial road, and denial for Lot 13 subject to staff conditions.

On October 10, 2006 the BCC granted approval for final development plan and plat for Phase 1 of the Ponderado Subdivision which consisted of two lots – one was 2.996-acre residential lot and the other 40.249-acre lot – and preliminary development plan approval for Phase II which consists of the remaining 14 lots – 13 residential lots and one dedicated open space on 40.249 acres, subject to staff conditions.

Phase I, consisting of one lot located on the far southeastern parcel, which will use Camino Peralta as access was approved at the October 10, 2006 meeting. Phase II will consist of the remaining lots and will be developed in coordination with the construction of Hager Road, also known as Los Sueños Trail.



The applicant requests final development plan and plat approval for Phase II consisting of the remaining 14 lots. The entire subdivision consists of 15 lots – 14 residential lots and one dedicated as open space, which includes two affordable lots meeting the County's Affordable Housing Ordinance. The lots vary in sizes from .993 acres to 3.581 acres.

This request also includes a variance of the Extraterritorial Subdivision Regs to allow driveway access for Lot 13 and Lot 14 on a minor arterial road. Section 3.5.1.F.1 states, where a proposed subdivision or development contains lots abutting or adjacent to a major or minor arterial, it shall be planned so that lots do not front on the arterial. The subdivision or the development shall be laid out to have a minimum number of road or street intersections with arterial; intersections and driveways shall meet the standards of 3.5.8 of these regulations.

The applicant has addressed the variance criteria and staff responded to the applicant's comments. The application was reviewed for the following: Existing conditions, access, traffic, water, fire protection, liquid/solid waste, terrain management, stormwater retention, archeology and open space.

Recommendation: Section 3.5.F.1 states, where a proposed subdivision or development contains lots abutting or adjacent to a major or minor arterial, it shall be planned so that lots do not front on the arterial. Staff recommends approval of the variance request for driveway access from Los Sueños Trail for Lot 14, because alternative access is not available. And staff recommends denial of the variance request for direct access for the driveway to Lot 13, which can take access off Camino Peralta within an easement through Phase 1, Lot 12. Should the BCC recommend approval of the variance request and further approve the final plat and final development plan staff recommends the following conditions. May I enter those into the record.

CHAIRMAN SULLIVAN: Yes.

MR. ARCHULETA: I'd like to clarify a couple of them. Condition #8b, Submit a copy of the water quality analysis from NMED to fulfill the water quality requirement for future wells. And strike condition #11; that one's already taken care of in condition #4. Thank you, Mr. Chair.

[The conditions are as follows:]

1. Lot 13 shall take access off Camino Peralta within an easement through Phase I, Lot 12.
2. Compliance with applicable review comments from the following:
 - a. State Engineer
 - b. State ED
 - c. State DOT
 - d. County Hydrologist
 - e. County Developer Review Director
 - f. County Fire Marshal
 - g. County Public Works

- h. County Technical Review
 - i. State Soil and Water District
 - j. Santa Fe County Affordable Housing
3. Lots 6 and 7 shall share a driveway as required by Article III, Section 4.4.3.a of the Land Development Code
4. A public trail easement 15 feet in width along the west property line as approved by Santa Fe County Open Space and Trails shall be identified on the plat as required by Ordinance No. 2007-1, Tres Arroyos del Poniente Special Review District (TAP).
5. Final homeowner documents (covenants, by-laws, articles of incorporation, disclosure statement) are subject to approval by staff and shall include but not be limited to the following:
 - a. Water restrictions of .25 acre-feet per lot
 - b. Shared well agreement
 - c. Water conservation measures shall include water storage from roof drainage
 - d. Maintenance of roads and drainage facilities
 - e. Maintenance of septic systems
 - f. Solid waste removal by the Homeowners Association if the homeowner is not complying
 - g. Affordable lots
 - h. Floodplain obstructions, minimum lowest floor elevations
6. Each lot is required to install residential fire suppression sprinkler systems and alarms as required by the Urban Wildland Interface Code Ordinance No. 2001-11 and this shall be noted on the plat.
7. All redlines shall be addressed.
8. Applicant shall address the following issues from the Santa Fe County Hydrologist prior to:
 - a. All water will be supplied by shared wells, each supplying at least three lots
 - b. Submit a copy of the Water Quality Analysis from NMED to fulfill the water quality requirements for future wells. [Added at staff report]
9. Applicant shall identify affordable lots on plat of survey and disclosure statement as required by Ordinance No. 2006-2
10. The applicant must record water restrictive covenants simultaneously imposing .25 acre-feet per year per lot as required by Article VII, Section 6.6.2 of the Land Development Code. Water meters for each subject parcel must be installed to monitor water use. Water consumption reports must be submitted to the County Hydrologist by January 31st of each year and submitted to the OSE on a quarterly basis. The applicant shall add this responsibility to the Director's duties listed in the Well Sharing Agreement.
11. Trails shall be developed within common open space around perimeter of subdivision. [Deleted at staff report]
12. Submit Engineer's cost estimate and acceptable financial surety for completion of

required improvements as approved by staff. Upon completion, submit certification by registered engineer that improvements have been completed in conformance with approved development plans.

13. A financial guarantee is required for the full cost of Los Sueños Trail/Hager Road construction prior to the plat being recorded.
14. Submit solid waste fees in conformance with the ESR.
15. Common ponds for road drainage to be located in easements. Calculations for size of culverts must be provided to support culvert design. These calculations must be provided for review and approval prior to recordation of the final plat.
16. No building permit shall be issued on any lot until Los Sueños Trail/Hager Road connection is complete and accepted by Santa Fe County.
17. Lot 13 minimum net lot size shall be at least one acre or a community water system will be required as per Article V, Section 9.3.1, Table 5.1.
18. A conditional letter of map revisions (CLOMR) is currently under review by FEMA for the Hager Road/Los Sueños Trail crossing of the Arroyo de los Frijoles. Upon completion of construction a Letter of Map Revision must be submitted to the County and to FEMA.
19. The applicant must address all redline comments by staff shown on the plat of survey and terrain management plan. These plans may be picked up from Vicente Archuleta, Development Review Specialist within the Land Department. These plans must be resubmitted on Mylar prior to recordation.

CHAIRMAN SULLIVAN: Okay, questions for Mr. Archuleta?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: In terms of the denial, Vicente, you say that they can have access off of Camino Peralta, and they want it off of Los Sueños?

MR. ARCHULETA: Mr. Chair, Commissioner Montoya, that's correct. They can take access for Lot 13. It's adjacent to Lot 12, which was Phase 1 of the development, and it had access through Camino Peralta which doesn't have to depend on the Hager Road or Los Sueños Trail at this time.

COMMISSIONER MONTOYA: So what would it do if they got access through Los Sueños Trail?

MR. ARCHULETA: Mr. Chair, Commissioner Montoya, it would just add another driveway on Los Sueños Trail.

COMMISSIONER MONTOYA: Okay.

MR. ARCHULETA: These two driveways are across from each other but they don't actually line up at a 90 degree angle, which we would prefer that they would.

COMMISSIONER MONTOYA: Okay. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Okay. Vicente, how close is this subdivision to the County water system or to the Suerte del Sur water system?

MR. ARCHULETA: It's approximately, I would say – Mr. Chair, I really don't know the answer, actually.

CHAIRMAN SULLIVAN: Okay. We'll ask the applicant when the applicant comes forward. And could you explain the negative opinion of the State Engineer on this project?

MR. ARCHULETA: Mr. Chair, the State Engineer always gives a negative opinion on subdivisions.

CHAIRMAN SULLIVAN: No, not always he doesn't. I've seen quite a few positive ones.

MR. ARCHULETA: Maybe the applicant can address that.

CHAIRMAN SULLIVAN: All right. We'll ask the applicant that. Any other questions for staff? Is the applicant present?

[Duly sworn, Linda Tigges testified as follows:]

LINDA TIGGES: Linda Tigges, Tigges Planning Consultants, 1925 Aspen Drive. I would like to introduce the applicants, Judy Ross and Ted Wegner. We agree with the conditions of approval with the staff clarifications. As some of you may recall, the Board of County Commissioners approved this project for preliminary approval for all 14 lots and gave final approval for the one lot to the southeast. That has been platted and we're before you know with the other 13 lots with 12 market lots and two affordable housing lots.

The property is located – we've got a big area map here first. The property is located north of 599. It's accessible right now by Camino Peralta here, and then the Hager Road which also I guess formerly is called Los Sueños Trail also goes through it. One of the conditions of approval, you noted, is that this property can't develop, can't record the plat until Hager Road is constructed. Just a little closer look at it, the property is one of seven lots of the archdiocese property. It's this one right here. Again, we're showing Hager Road and Peralta coming up here. 599 is down there. Suerte del Sur is up here. It's separated by the width of the lots, and I'm not sure what the scale is on this, but it's quite some distance between the two.

As you can see from this, I believe, that it is located on the Arroyo Frijoles and it's a difficult lot. It might be one of the most difficult lots in the project. One of the more difficult lots. The land on the north side, land on the south side is divided east-west, and then you've got Hager Road going north-south through it, so it divides it into four parts. The floodplain here is very wide. This isn't just the floodplain. This is something else; I think I can show it here easier. The floodplain on this side goes up to here. It's a hard lot to try and develop. The applicant has dealt with the difficulties by arranging the lots on both sides of Hager Road. These lots, because of the floodplain go all the way down to the arroyo, and then over here the floodplain was a little bit different and they were able to do two layers. And then for the south side, they put one lot here and then the two lots there in an attempt to try and deal with the terrain.

The idea was to dedicate the floodplain here – not the floodplain, but to dedicate this portion as common open space. This is common open space. This is a trail, which is also a

public trail, and then working with the neighbors, in a lot of meetings and with City staff and going up there and hiking it, they also decided to put a trail over here. And the idea was this one would be connective north-south and this one would be connected east-west. As a result of the Hager Road and the common open space and the trail, almost 20 percent of the land is put in public domain, about 18 percent, to be exact.

The idea of the applicants in trying to work with this lot would be that the land slopes down here, it slopes down here, and then there is the arroyo, that they would create a kind of community with the 14 lots around the arroyo and the open space so that people could talk to each other, they'd see each other and get to know each other and create a little neighborhood.

There are four shared wells on the property. There are two affordable lots. There's one here and one down here. So there's two affordable lots, 13 other lots, meeting City standards.

And part of the difficulties of the property and being divided up in so many ways, the applicants were able to put it together for two variances for driveways. The one, Hager Road/Los Sueños Trail is an arterial. You're not really supposed to have driveways go on it, but this parcel would be landlocked if it couldn't have a driveway. So staff recommended that. Here's a little tag of a driveway. This lot, the neighbors over here and particularly in Puesta del Sol over here, urged that this one go to Hager Road too rather than following an easement through here and going on to Peralta, just to protect their neighborhood from a little bit more traffic. Staff has not seen that in a positive way and are recommending against it.

The project has been reviewed by the school district. They've made no response to our letter though, and it also has been approved in a positive way by the fire department and the Public Works Department on traffic.

There's a couple of letters that I would like to hand out and one is from the neighborhood. The Puesta del Sol neighborhood has given us a positive recommendation, and a request again to you for the variance for the driveway. The other one that we're handing out has to do with emergency access. I believe you received a handout from staff with a letter from – I think from the Pifion Hills on the west side, and they are asking for an emergency access here. I think this one probably shows it a little better. The concern is – I think they're here to explain it. The concern is that there isn't any emergency access for the property over in the Pifion Hills area and they've asked for an emergency access here. We took that seriously and we worked with the fire department people and the Public Works staff and we reviewed the plat for the area. There are two existing emergency accesses platted. The first one is platted here off Penny Lane and the second one is at Suerte del Sol, there's an access platted here through Suerte del Sol, which would probably help this neighborhood the most in an emergency if the Frijoles was flooded and the Trampas was flooded then they could north.

I do have the plats here if you're interested. This is a schematic but I do have the plats with me. The concern about extending the small road that serves this area in here is – I think you can see this on here, this is a topo. The dark areas are the 30 percent slope. This is rough in here as it comes down to the arroyo and if we put it in here we'd be extending it right

through the roughest area, right through slopes. It would be difficult and expense to build, also difficult to build, involving quite a bit of grading and culverts and so on and unsightly. We did, I think both the Fire Department and Public Works did take field trips out there. The handout from Vicente from Robert Martinez said, no, that's not the way to go. We've got these two other access points and the Fire Marshal also said a similar thing.

We talked also to Dave Sperling, who had talked to the neighbors and he was very clear that he had not recommended this site. He was concerned about access but he agreed with us when we talked to him that this wasn't an appropriate location, partly because of the terrain. Judy wanted to make a few comments as well.

[Duly sworn, Judy Ross testified as follows:]

JUDY ROSS: My name is Judy Ross and I just have a few quick comments. We're excited about the opportunity to create a high-quality subdivision in Santa Fe that will be an asset to Santa Fe County. And we plan to make this our future home as soon as Hager Road gets built. We have worked with the neighbors to answer their questions and address many of their concerns, and we've fulfilled all of the County requirements and we look forward to approval. Thank you.

CHAIRMAN SULLIVAN: Ms. Tigges, can you or anyone answer the question of the negative opinion of the State Engineer?

MS. TIGGES: I think I'll refer – no, I can't because it seemed acceptable to the County staff, and frequently, you do get a negative response though for the reason, it's hard to sort out. I think that Shelley has a comment on that.

MS. COBAU: Mr. Chair, the State Engineer had a concern regarding the pumping rate, and also they said that the constant pumping rate of 24.5 gallons per minute was calculated from the total volume pumped during the test, and they said the actual pumping rate based on the figures was in fact 15.1 gallons per minute. Karen Torres reviewed this report and made some extensive testimony during their preliminary hearings, and one think I would like to point out is I believe that – Jose is on his way to get the TAP Ordinance right now, but the TAP Ordinance has come into effect since these recommendations were developed for the Ponderado Subdivision because it's been on the table in the Development Review Division for about 18 months, waiting for them to do their FEMA analysis. Because we did require a submittal be made to FEMA because we had the Arroyo de los Frijoles floodplain.

So I believe we are going to need to change a condition in order to comply with the TAP Ordinance and that's going to require that their water restrictive covenants be reduced to .20 versus .25. We had a lengthy conversation during the preliminary hearing. Commissioner Campos had asked some questions to Karen Torres and she had responded, and those meeting minutes are in your packet. Karen Torres didn't have a problem with the pump capacity. I believe we had a positive recommendation from Karen Torres on this, other than the fact that we needed to have the water restrictive covenants reduced to .20 acre-feet per year per dwelling unit.

CHAIRMAN SULLIVAN: And that is because of the requirements that are in

the TAP Ordinance?

MS. COBAU: That's correct, Mr. Chair. So I'd like to suggest that we change that condition before a vote is taken on it.

CHAIRMAN SULLIVAN: Okay. And is that acceptable to the applicant? Okay. The applicant said yes. And then – so getting back to the State Engineer's recommendation for denial, is that because – I noticed a comment about Mr. Corbin not being an engineer, and then also, is that because they disagree with the pumping rate?

MS. COBAU: I think the comment was that the report made Mr. Corbin sound like he was the State Engineer. He is in fact a P.E. so he is an engineer but he isn't the State Engineer and I think that's what the Office of the State Engineer took exception to.

CHAIRMAN SULLIVAN: Okay, but getting back then to the pumping rate, what effect does this difference of opinion on the pumping rate have?

MS. COBAU: Mr. Chair, I'm not a hydrologist. I can assume that you could improve your pumping rate if you improved your pumping capacity as long as your well had the water supply. So I think we have to as staff, trust that Karen Torres has looked at that and if we look at the meeting minutes, we can see that she is recommending approval of this subdivision, back about 18 months ago. And I didn't see a more recent letter from Laurie Treviso so I can't speak to the fact if Laurie has reviewed this or not. But Karen Torres was actively involved and did come and testify at the Commission meeting back in October of 2006.

CHAIRMAN SULLIVAN: And didn't she also indicate how close the water supply line was at that time? I remember a 500 feet but maybe that was another project.

MS. COBAU: I reviewed the meeting minutes. I didn't hear that. I don't think it's that close and the current regulations and the Extraterritorial Subdivision Regs ask that they – or require that they connect when they're within 200 feet, Mr. Chair.

CHAIRMAN SULLIVAN: Okay. Other questions of the applicant from the Commission? Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. I think the .20 requirement per land lot was discussed at our last meeting. Was that not correct, Ms. Tigges? I'm hearing that was a requirement of the TAP but I think you agreed to it at our last hearing. Is that correct?

MS. TIGGES: Yes. I think that the situation was that it hadn't been adopted at that time and I was a little uneasy until it was adopted. It is now adopted, so that isn't an issue anymore.

COMMISSIONER VIGIL: We are no longer going to include the requirement for public trail easement. I guess 15 feet have been dedicated in the perimeter of the property. Would you enlighten me some more about that? Is the easement just dedicated or will your client be developing that? What was negotiated with regard to that?

MS. TIGGES: I would like to let her respond to that.

MS. ROSS: If I could I'll show you on the map and then tell you what's been discussed and negotiated. Instead of putting the trail along Hager Road, the neighbors, both the east and the west asked that we put it along the western border. So all of the property

owners for two, five and seven have a written contract where we agree not only to dedicate the 15 feet but to build a trail that was acceptable the County Open Space and Trails group. So we will be building this. So that's shown by these double blue lines.

The other trail goes along the edge of the arroyo here and is shown by the double blue. So that's the east-west trail that Linda was speaking to earlier. So this trail will be developed, not just dedicated.

COMMISSIONER VIGIL: Okay.

MS. ROSS: And then this is the open space, this area of the arroyo, for public access.

COMMISSIONER VIGIL: Okay. Thank you very much for that. The other issue that I'm concerned with regard to shared wells. That's your only alternative at this point in time. However, in the future, should the Buckman Direct Diversion water system go through there, I think that's one of the sites that's being considered, would you consider a condition of approval to remain on shared wells until such hookup can occur with a water utility system?

MS. ROSS: Yes, and let me add one additional statement to that. We have designed the piping for the shared wells so that everything can be valved, so that when there is City or County water in the area, that we can just turn valves and shut the wells down. So we have made that part of our engineering work, because this distance right here is about 700 feet. So if you just kind of eyeball it, this is probably, let's say 1200, 1300 feet, from our perimeter to Suerte. So if Suerte brings the pipes down to here we would be one subdivision away from County piping. So we are planning for the assumption that at some point there will be County or City water and are piping to do so, so we don't have to tear up the subdivision to handle that.

COMMISSIONER VIGIL: Staff, is that clear as a condition, or could you clarify that as a future condition?

MS. COBAU: So we could have condition 20 that the applicant will agree to connect to County water or City water when it becomes available, or just County water, Commissioner Vigil?

COMMISSIONER VIGIL: At least my vision was that it be with County water because I envision that that's one of the site areas for where the Buckman Direct Diversion system will be through, and it makes sense. You're still going to be in the county; it probably should be within the County water supply. We get really confused when we start crossing over for utility services between the City and County. It creates a lot of problems. So I think County.

MS. COBAU: So the condition 20 will be the applicant will agree to connect to County water when it becomes available. And Jose just brought a copy of the TAP Ordinance in here, and I stand corrected. The water restrictions are .25 acre-feet in the TAP Ordinance. I think there must have been some discussion to limit it to .20 acre-feet, and then when the ordinance was adopted it became .25. So I stand corrected on that and I apologize.

COMMISSIONER VIGIL: Okay. And I think that was clarified when I posed

the question to Ms. Tigges that this part of the discussion, not necessarily part of the TAP Ordinance. I guess my next question is I'd like some more description about what the affordable housing units will be like. It's such a new ordinance for us. We're moving forward with it. Do you have a sense of that and what discussions have you had with regard to it?

MS. ROSS: Yes. We've had a number of discussions with the Community Housing Trust, so our thought process is that we would give the lots to the Community Housing Trust and work with them to develop the two lots. Our thought process is we really look at these lots as kind of if you will the gateway to our property so it's important to us that they be very nice. I don't know if you've been out in this area but the views are absolutely spectacular and the arroyo is just a great, beautiful place. So we think these are going to be two great affordable houses.

COMMISSIONER VIGIL: Okay. And could you state for me the issue as I've reviewed here with regard to a -- is a culvert or a low-water crossing that's of concern? Could you state the issue for me with regard to how you understand it?

MS. ROSS: Okay, sure. Let me use this map. I don't know if you guys can all see this. The big issue is that the entrance to Piñon Hills, which is the subdivision over here, is a low-water crossing and it's not in very good condition. So the problem is for these people right now, as it exists, the only way for them to get out of their subdivision is for them to go cross country or to go through the low-water sub-area. So what they've asked, as the new subdivisions have come in, is give us a high-water crossing. Give us an all-weather crossing so that if we have a fire and there's bad weather, we can get out of here.

And so what's happened is there is one, so that the people over in this section, and this is probably, I don't know, 30 or 40 houses at this point and somebody here can probably get that, is that there -- and this has been platted through Penny Lane. Let me come back to this map so you can see it in its entirety, is this has not been platted. It's been platted over to the point of the Hager Lot 5. This has been designed by the engineers, but this subdivision is not in process yet. But this is a very flat area. And Penny Lane exists now and this cut-through exists now and there is a gate that is not locked. So people can go from here, and when Hager Road is built, you would be able to go and get to Hager Road. So that's one all-weather crossing.

However, as I showed you on this map, it satisfies the needs of the people that live in this area over here. The issue is the people that live over here. Because they can't get out through the low water, the other crossing, and this is also low-water, or if it's high water they can't get out. So they can't get over to that access. So when you guys approved Suerte, you asked them to put an emergency exit here. And this is going to be a breakaway gate. This over here is actually going to be a road.

So at the time that Hager Road is put in, you will have two additional emergency accesses, one for the people in the south and one for people in the north of Piñon Hills. So that's the issue that's on the table. And our concern is where they want to put the road is right here and it's 15 to 30 percent area. So it's not like you can just put a gate there. This is 320 feet of road that would have to be engineered, and then on the county side of it, it's basically

sandy, dirty. And there's no basecourse there. So there's another 250 feet that would have to be improved on the County's side of the road. So that's my understanding of the emergency access issue.

We, since 2006 have been working with both fire and Robert Martinez to figure this out and find a good solution.

COMMISSIONER VIGIL: And has a low-water crossing or culvert been discussed for that portion on the south side of the map that would provide an emergency access?

MS. ROSS: Well, this one is actually platted and ready to go.

COMMISSIONER VIGIL: The one further down, I guess.

MS. ROSS: This one right here?

COMMISSIONER VIGIL: Yes.

MS. ROSS: That's a part of an existing subdivision and I don't know what Piñon Hills plans to do about that.

COMMISSIONER VIGIL: Okay. And where does your boundary start with regard to where that culvert is?

MS. ROSS: Our boundary is way over here. This is us in the shaded section.

COMMISSIONER VIGIL: Okay. Thank you.

CHAIRMAN SULLIVAN: Thank you. Commissioner Vigil's question on the affordable housing, we require that those lots be shown in the final plat process. Where are those lots for the affordable housing?

MS. ROSS: Let me show you on the plat. It is this lot, which is about 1.8 acres, and this lot which is 1.7 acres.

CHAIRMAN SULLIVAN: And where's the main road?

MS. ROSS: This is Hager Road shown here in the kind of golden color.

CHAIRMAN SULLIVAN: Getting back to the State Engineer and the County's Water Resource Department comments. One of the comments from the County, Karen Torres was that you have a water quality issue that you don't meet the secondary maximum contaminant levels for iron, aluminum and turbidity. And she states that you must state that in the disclosure statement, and the expected adverse effects of the contaminant for domestic water use. And I didn't see that in the staff conditions. Is that covered somewhere else?

MS. ROSS: Could I address that, Shelley?

MS. COBAU: It is covered in condition #2, as compliance with applicable review comments from the County Hydrologist, item 2d.

MS. ROSS: Commissioner Sullivan, I have a copy of the analysis that was done on the water quality. I'd be happy to share that with you. The first water quality that we turned in was actually done on another well. On our well, the water quality, according to Corbin is "the best water quality" he's ever seen in Santa Fe County. So I would be happy to share with you that memo and give it to Karen or whoever would like to read it, because it really is a non-issue and the analysis was done by a sanctioned analysis person.

CHAIRMAN SULLIVAN: Well, I think we have a problem here, because it's either going to be shown or it's not. And the County's recommendation is that that note be shown. And if you're saying that that's wrong, and that there's different test results here, then we need to get those test results and we need to get that condition or that letter changed, because this is an important water quality issue. So which is it?

MS. COBAU: Commissioner Sullivan, I believe that until Karen Torres or until Laurie Treviso saw that water quality data I believe that the comment letter as issued by Karen Torres on the data that she was give for review would have to stand.

CHAIRMAN SULLIVAN: Okay. We're at final approval here, so –

MS. COBAU: I believe that before we'd record this final plat, Mr. Chair, we'd require that that note were placed in the subdivision disclosure statement, as required by the County Hydrologist.

CHAIRMAN SULLIVAN: Okay. That's clear to me. I'm sensing that the applicant has a different take on it. Is the applicant okay with staff's recommendation? Okay. I think you said yes. I couldn't hear you at the mike. Okay. Thank you. Getting back to the State Engineer's comment, it wasn't so much about the engineer – now I've lost it. I had it here. Sorry. Here it is. It says, and this is what I'm trying to get a handle on, that the applicant cannot – that the State Engineer cannot determine that the subdivider can fulfill the proposals in his disclosure statement concerning water, excepting water quality. Accordingly, a negative opinion is issued. So obviously, someone must have talked to Mr. Longworth about this. What was his concern here that you could not fulfill the proposals in your disclosure statement, because I don't think we have a copy of your disclosure statement in the packet here. What were you saying that he didn't think you could fulfill?

MS. COBAU: Mr. Chair, if I could interject.

CHAIRMAN SULLIVAN: Sure.

MS. COBAU: Karen Torres, I believe it was dealing with their water budget and other things that were contended and I believe in the letter from Karen Torres dated July 11, 2006, which is Exhibit A in your packet, she had asked for some additional restrictions. That they would have to limit their grass to 1,000 square feet or any area that was being drip-irrigated had to be made of grass, all these items in Karen Torres' memo, water quality and regarding they had stated they would plant sod or grass seed that contained Kentucky bluegrass and Karen Torres specifically required that that be prohibited.

So I think Karen addressed the issues regarding their water availability, their water delivery and I feel comfortable that Karen Torres thoroughly reviewed this project and would have commented if she had further issue, because she does get copies of the letters from the OSE.

CHAIRMAN SULLIVAN: Okay. Thank you, Shelley. Are there any other questions for the applicant? Okay, seeing none, this is a public hearing, are there any persons present who would like to comment with regard to this project? I believe we did get a letter from the Agua Fria Village Association. I see Mr. Mee is here, so I bet he's got a comment. Mr. Mee, or whoever would like to comment, step forward.

[Duly sworn, Milton Moomaw testified as follows:]

MILTON MOOMAW: My name is Milton Moomaw. I'm the vice president of the Puesta del Sol Neighborhood Association. You have a letter from our president who is unfortunately out of town at this time, in support of the approval, with the variance requested for two driveways onto the Hager Road. That's basically all I need to say is I'm here in case you have any questions of Puesta del Sol.

CHAIRMAN SULLIVAN: Thank you, sir. I appreciate that. Next speaker please. And let me understand, Shelley, the staff's recommendation is that one variance be approved and that the other not be approved. Is that correct?

MS. COBAU: That's correct, Mr. Chair. It's staff's objective to try to limit the number of driveways on that arterial roadway. The lot on the east side of Los Sueños Trail could take access through another one of the Ponderado lots onto a cul-de-sac and we wouldn't have to have an access onto Los Sueños Trail, onto that arterial. The other lot on the west side doesn't have an option, so we felt we could support that variance request on the other side, for I believe it's Lot 14. It's on the west side of Los Sueños Trail. That's why we had kind of a split recommendation there on the driveway access.

CHAIRMAN SULLIVAN: All right. Thank you for that clarification. Mr. Mee.

[Duly sworn, William Mee testified as follows:]

WILLIAM MEE : I'm William Mee, president of the Agua Fria Village Association, at 2073 Camino Samuel Montoya. I did sent a letter of opposition at our June 2nd meeting and we voted to oppose the development. I guess we had never gotten notice before this secondary approval, but basically, our concerns are with our future family transfer rights, is what we're calling it. I talked with Commissioner Vigil and she said maybe it would be appropriate to have a discussion offline about an ordinance or that type of thing.

I think one of our concerns was that we have a lot of residents that live in the village and have land on the north side of State Road 599, so they quite often use County Road 62 and cross 599, and it's a pretty dangerous crossing right there. I know in years past the WIPP Route had sort of promised that there would be another interchange built along 599 and of course WIPP funding has dried up and GRIP funding and DOT funding has sort of waned on this particular issue. But we were thinking that maybe there should be impact fees charged to build that interchange for this particular subdivision. I know it's not in ordinance or County resolution at this point but maybe that's something we should think about because that interchange isn't getting built and it's been a number of years and there's been some really horrific accidents in that area.

We keep approving subdivisions north of State Road 599 and it's just complicating that traffic situation for the County Road 62 possible interchange at that point. And I think probably that's our basic opposition to it. Of course this particular subdivision does impact school capacity, fire and public safety capacity and just overall strains the County to meet those needs in the area. So we feel that this particular subdivision would impact us. At some point we're going to be overbuilt and I think we have to recognize that. The housing market

is starting to decline and as we build more and more in these areas there's a number of subdivisions that have been approved already and haven't broken ground yet, so we're wondering, will our neighborhood be the one that some houses are built, they're unable to be sold and they just sort of decline in the neighborhood.

We sort of want to avoid that situation. But those were the issues that we had discussed in our June 2nd meeting. I thank you for your time.

CHAIRMAN SULLIVAN: Thank you, Mr. Mee. Does the Commission have a copy of Mr. Mee's letter? I think I got this off the email.

MR. ARCHULETA: Mr. Chair, we had that passed out with that packet that Jose passed out earlier.

CHAIRMAN SULLIVAN: Oh, just now? It was passed out just now? So we have a copy of that June 6th letter. All right.

[Duly sworn, Tom Terwilliger testified as follows:]

TOM TERWILLIGER: I'm Tom Terwilliger from Lado del Puesta del Sol. I'd just like to thank the applicants for their meeting with neighbors and their working with the neighbors, and for following the TAP plan closely.

CHAIRMAN SULLIVAN: Thank you, Tom. Is there anyone else who would like to speak on this application? Seeing none, we'll close the hearing. Are there any further comments or questions from the Commission? If not, what's the pleasure of the Commission?

CHAIRMAN SULLIVAN: Oops, she's back. A question from Commissioner Vigil.

COMMISSIONER VIGIL: This is for staff. When the development goes through its process, what does our ordinance say with regard to what neighborhood associations are supposed to be identified within the proximity of the development?

MR. ARCHULETA: Mr. Chair, Commissioner Vigil, right now, we have anybody within 100 feet of the property, and the Agua Fria community is more than that, so they weren't identified. But in the future we can do that. We can have them notified.

Commissioner Vigil: Okay. It would seem to me that it would be appropriate to do that, particularly when you have a strong neighborhood association that is active with regard to impact analysis and what developments will do and how they will impact their own communities, particularly a traditional historic village. So if we could conclude that, and I would even say we consider amending the current ordinance to clarify that further.

CHAIRMAN SULLIVAN: Anything else, Commissioner Vigil?

COMMISSIONER VIGIL: No.

CHAIRMAN SULLIVAN: Okay. Commissioner Montoya.

COMMISSIONER MONTOYA: I move for approval with staff recommendations of approval for access on Lot 14 and denial of the variance request for Lot 13.

CHAIRMAN SULLIVAN: And with the additional condition 20?

COMMISSIONER MONTOYA: With all the conditions and the additional,

yes. With the elimination of 11. So there's still 19 right?

CHAIRMAN SULLIVAN: There's still 19 if we eliminate 11, but the additional conditions regarding hookup to future County water.

COMMISSIONER MONTOYA: Yes.

CHAIRMAN SULLIVAN: Okay, there's a motion, is there a second?

COMMISSIONER CAMPOS: Second.

CHAIRMAN SULLIVAN: Second by Commissioner Campos. Discussion of the motion?

The motion to approve passed by 4-1 voice vote with the chair voting against.

CHAIRMAN SULLIVAN: The chair votes no. On these subdivisions that don't have public water systems I think it's important that the State Engineer being satisfied that the water quantity and quality is adequate. So that's four in favor and one in opposition. The motion passes.

~~XV. A. 6. **EZ Case #DL 08-4140 Lerma Family Transfer. Isaac Lerma, Applicant, Requests Plat Approval to Divide 4.73 Acres into Two Lots for the Purpose of a Family Transfer. The Lots Will Be Known as Lot 2-A (1.25 Acres, More Or Less) And Lot 2-B (3.48 Acres, More Or Less). The Property is Located at 19 Calle Suzanna, within the Pinion Hills Subdivision, Via County Road 70, Within Section 25, Township 17 North, Range 8 East, (5-Mile EZ, District 2) Jose E. Larrañaga, Case Manager**~~

~~MR. LARRAÑAGA: Thank you, Mr. Chair. On May 8, 2008, the Extraterritorial Zoning Committed met and acted on this case. The decision of the EZC was to recommend approval of the applicant's request.~~

~~Applicant, Isaac Lerma, wishes to convey 1.25 acres of a 4.7-acre parcel to his son. The application for a division of land by way of a family transfer is in compliance with applicable provisions of the Extraterritorial Subdivision Regulations, Section 3.3.6. The property has been in the family proper since 1992.~~

~~There is currently one dwelling on the property. The property is located in the Piñon Hills Subdivision within the Basin Hydrologic Zone where the minimum lot size is 2.5 acres. Under the EZO, family transfers of one-half the minimum lot size are allowed, therefore creation of these lots is possible with .25 acre-feet per year water restrictions.~~

~~The subdivision in which the property is located was approved by the BCC in 1964. This subdivision is legal non-conforming, as it does not meet current subdivision standards for fire protection, roads, water and liquid waste.~~

~~The following lot sizes are proposed: Lot 2-A, 1.25 acres; Lot 2-B, 3.48 acres. This~~

THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY

RESOLUTION NO. 2011-193

A RESOLUTION

FINDING THE EXISTENCE OF SEVERE ECONOMIC CONDITIONS AND
SUSPENDING ENFORCEMENT OF SPECIFIED PROVISIONS OF ARTICLE V
OF THE LAND DEVELOPMENT CODE THAT CONCERN EXPIRATION OF
MASTER PLANS, PRELIMINARY PLATS AND FINAL PLATS PURSUANT TO
ORDINANCE NO. 2011-11.

WHEREAS, Article V, Sections 5.2.7, 5.3.6 and 5.4.6 of the Santa Fe County Land Development Code ("the Code") and the former Extraterritorial Zoning Ordinance contain expiration dates for certain development approvals such as master plans, preliminary plats and final plats;

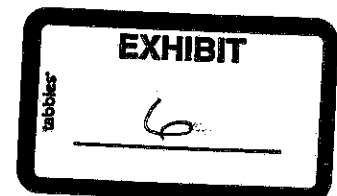
WHEREAS, Article V, Sections 5.2.7, 5.3.6 and 5.4.6 require an applicant to apply for an extension of these approvals and precludes an extension should the approval expire;

WHEREAS, the national, state and local economies have experienced a severe downturn in recent years which has heavily affected the housing sector, and signs of an economic recovery are ambiguous at best; and

WHEREAS, pursuant to Ordinance No. 2011-11, the Board of County Commissioners ("the Board") may suspend provisions of Article V, Sections 5.2.7, 5.3.6 and 5.4.6 of the Code upon a finding of economic necessity, which is defined in terms of a score of 100 or less on the Conference Board's Leading Economic Index® for the United States for any quarter, and for three years following any such event, and the Board recognizes that these conditions are present and desires to temporarily suspend the enforcement of those sections of Article V that set forth expiration of master plans, preliminary plats and final plats for two years pending an economic recovery.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. Pursuant to Ordinance No. 2011-11, The enforcement of Article V, Sections 5.2.7, 5.3.6 and 5.4.6 and related policies and procedures of the Land Use Department whereby master plans, preliminary plats and final plats expire are hereby suspended until approval of a subsequent resolution of this Board for those developments located within the unincorporated lands of Santa Fe County and those areas within the extraterritorial planning and platting jurisdiction as described in NMSA 1978, Sections 3-20-5 (1965) and 3-21-2 (1965), so long as an order approving the specific suspension for the development in question is approved by the Board.



REC'D CLERK RECORDED 12/18/2011

2. Any suspension of enforcement of Article V, Sections 5.2.7, 5.3.6 and 5.4.6 granted by the Board pursuant to paragraph 1 herein shall be valid for a period of two (2) years from the date suspension is authorized.

ADOPTED THIS 13th DAY OF DECEMBER, 2011.

THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY

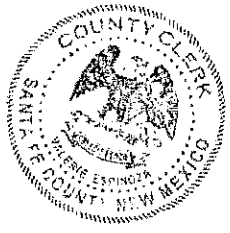
By: *Virginia Vigil*
Virginia Vigil, Chair

ATTEST *Valerie Espinoza*
Valeria Espinoza, County Clerk



APPROVED AS TO FORM:
Stephen C. Ross
Stephen C. Ross, County Attorney

SFC CLERK RECORDED 12/16/2011



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss
BCC RESOLUTIONS
PAGES: 2

I Hereby Certify That This Instrument Was Filed for Record On The 16TH Day Of December, 2011 at 10:32:22 AM And Was Duly Recorded as Instrument # 1654503 Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Valerie Espinoza
Deputy County Clerk, Santa Fe, NM

THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY

ORDINANCE NO. 2011-11

AN ORDINANCE SUSPENDING ON A CASE-BY-CASE BASIS PROVISIONS OF
ARTICLE V OF THE LAND DEVELOPMENT CODE CONCERNING EXPIRATION OF
MASTER PLANS, PRELIMINARY PLATS AND FINAL PLATS UPON A FINDING OF
ECONOMIC NECESSITY

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE
COUNTY OF SANTA FE:

Section 1. Suspension of Expiration. A new paragraph of Article V of the Santa Fe
County Land Development Code is enacted, as follows:

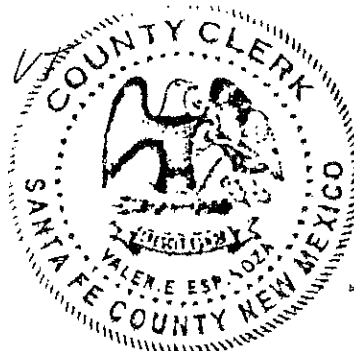
The Board of County Commissioners may approve, by resolution, temporary retroactive
suspension of enforcement of Article V, Sections 5.2.7, 5.3.6 and 5.4.6 of this Code
concerning expiration of master plans, preliminary plans and final plats for any development
located within the unincorporated lands of Santa Fe County and within the extraterritorial
planning and platting jurisdiction as described in NMSA 1978, Sections 3-20-5 (1965) and
3-21-2 (1965), upon a finding that severe economic conditions justify such a suspension
either for a particular project or for a described class of projects. Any such resolution shall
not suspend enforcement of Article V, Sections 5.2.7, 5.3.6 or 5.4.6 more than three (3)
years, nor apply to a master plan, preliminary plan and final plat expiring more than three
(3) years prior to the effective date of this ordinance, and such resolution may contain
conditions that the Board deems appropriate to such approval. For purposes of this section
"severe economic conditions" are present when the Conference Board Leading Economic
Index® for the United States is less than 100 for any quarter, and for three years following
any such event.

PASSED, APPROVED and ADOPTED THIS 13th DAY OF DECEMBER, 2011.

THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY

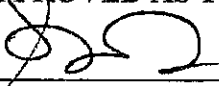
By: *Virginia Vigil*
Virginia Vigil, Chair

ATTEST:
Valeria Espinoza
Valeria Espinoza, County Clerk



SFC CLERK RECORDED 12/15/2011

APPROVED AS TO FORM:



Stephen C. Ross, County Attorney

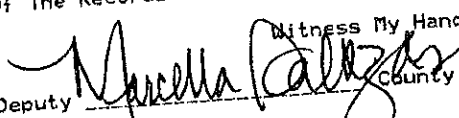
SFC CLERK RECORDED 12/16/2011

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC ORDINANCE
PAGES: 2

I Hereby Certify That This Instrument Was Filed for
Record On The 16TH Day Of December, 2011 at 10:32:21 AM
And Was Duly Recorded as Instrument # 1654502
Of The Records Of Santa Fe County



Deputy  Witness My Hand And Seal Of Office
Valerie Espinoza
County Clerk, Santa Fe, NM