

**Henry P. Roybal**  
Commissioner, District 1

**Miguel M. Chavez**  
Commissioner, District 2

**Robert A. Anaya**  
Commissioner, District 3



**Kathy Holian**  
Commissioner, District 4

**Liz Stefanics**  
Commissioner, District 5

**Katherine Miller**  
County Manager

**DATE:** June 16, 2016

**TO:** Santa Fe County Planning Commission

**FROM:** Miguel "Mike" Romero, Development Review Specialist Sr. *MR*

**VIA:** Penny Ellis-Green, Growth Management Director *VE for*  
Vicki Lucero, Building and Development Services Manager *VL*  
Wayne Dalton, Building and Development Services Supervisor *WD*

**FILE REF.:** CASE # V 16-5030 Santa Fe Community Housing Trust

**ISSUE:**

Santa Fe Community Housing Trust, Applicant, Design Enginuity, Agent, request a variance of Chapter 7, Section 7.13.11.7, Water Harvesting of Ordinance No. 2015-11, the Sustainable Land Development Code (SLDC). The Applicant requests that the existing six (6) lots within the Aldea Subdivision not be required to provide water harvesting cisterns for homes that are less than 2,500 sq. ft. of heated floor area. The Aldea Subdivision is within the Tres Arroyos Del Poniente Community District (TAPCD) Overlay and is zoned as a Planned Development District (PD-3). The lots are located on Vista Precioso, within Section 20 Township 17 North, Range 9 East, Commission District 2.

**Vicinity Map:**



## SUMMARY:

The Applicant acquired the property as evidenced by a warranty deed recorded in the records of the Santa Fe County Clerk on May 6, 2008, as Instrument No. 1524768. The subject property is located within the Aldea Subdivision. The Final Plat was recorded in 2006. Prior to enactment of the SLDC, development on these lots was subject to the rainwater catchment requirements of Ordinance No. 2003-6. Ordinance No. 2003-6 required homes of 2,500 sq. ft. of heated area or greater to install a cistern, and homes smaller than 2,500 sq. ft. of heated area to install rain barrels.

On January 15, 2016, the SLDC came into effect, repealing Ordinance No. 2003-6, and changing the rainwater catchment requirements. SLDC, Chapter 7, Section 7.13.11.7.2 states: "[s]tructures whose roof surface is 2,500 sq. ft. or greater shall install a cistern that is buried or partially buried and insulated." The Section goes on to state, "[a] structure whose roof surface is 2,500 sq. ft. or less, and any accessory structure whose roof area is 500 sq. ft. or greater shall install rain barrels, cisterns or other water catchment systems including passive water harvesting and infiltration techniques, berms, swales, and tree wells to capture rainwater from a minimum of 85% of the roofed area."

The Applicant states they are developing 6 homes on lots 29, 33, 35, 37, 39, and 41 in the Aldea Subdivision. The lots are small, typically 4,000 sq. ft. with 70% lot coverage, leaving only 1,200 sq. ft. for landscaping. The Applicant will install xeriscape landscaping, which will include an anticipated annual irrigation water demand of 1,740 gallons per year. The Applicant states homes of 1,800 or 1,900 sq. ft. now have to install cisterns and that is a huge cost on a moderately priced home due to the fact that they exceed 2,500 sq. ft. when portals and garages are added in the square footage. The Applicant states that required cistern systems are typically 3,000 gallons in size and cost \$10,000 to \$14,000 to install. The Applicant also states that prior to the adoption of the SLDC, if a cistern was required, it could be sized to accommodate one month demand of irrigation water. Many of these homes in the Aldea community use very little water outdoors.

The Applicant requests a variance of Chapter 7, Section 7.13.11.7, Water Harvesting of Ordinance 2015-11, of the SLDC. The Applicant requests that six (6) lots within the Aldea Subdivision, lots 29, 33, 35, 37, 39, and 41 be allowed to adhere to prior County water harvesting requirements, which were set forth in Ordinance No. 2003-6 (An Ordinance Amending Ordinance No. 1996-10, the Santa Fe County Land Development Code. Article III, Section 4.4.1 and Article III, Section 2.4.1 to require rainwater catchment systems for all commercial and residential development). Both Ordinance No. 2003-6 and Ordinance No. 1996-10 were repealed when the SLDC was adopted.

Aldea Subdivision is within the Tres Arroyos Del Poniente Community District (TAPCD) Overlay and is zoned as a Planned Development District (PD-3), as defined by the SLDC, Chapter 8, Section 8.10.2.

The applicable requirements under the Santa Fe County Sustainable Land Development Code, Ordinance No. 2015-11 (SLDC), which govern this Application are the following:

Chapter 7, Section 7.13.11.7.2, Water Harvesting, Catchment Requirements, Residential Structures states:

- a. Systems shall be designed to capture rainwater from a minimum of 85% of the roofed area.
- b. Structures whose roof surface is 2,500 sq. ft. or greater shall install a cistern that is buried or partially buried and insulated. The cistern shall be connected to a pump and a drip irrigation system to serve landscaped areas. Alternatively, if captured water is to be used for domestic purposes, appropriate plumbing and pumps may be used to convey that water to the point of use.
- c. A structure whose roof surface is 2,500 sq. ft. or less, and any accessory structure whose roof surface is 500 sq. ft. or greater shall install rain barrels, cisterns or other water catchment system including passive water harvesting and infiltration techniques, berms, swales, and tree wells to capture rainwater from a minimum of 85% of the roofed area.
- d. Cisterns shall be sized to hold 1.15 gallons per square foot of roof area that is captured.

Chapter 14, Section 14.9.7.1, Variances, Purpose, states:

The purpose of this section is to provide a mechanism in the form of a variance that grants a landowner relief from certain standards in this code where, due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner. The granting of an area variance shall allow a deviation from the dimensional requirements of the Code, but in no way shall it authorize a use of land that is otherwise prohibited in the relevant zoning district.

Chapter 14, Section 14.9.7.4, Variance Review criteria states:

A variance may be granted by only a majority of all the members of the Planning Commission (or the Board, on appeal from the Planning Commission) where authorized by NMSA 1978, Section 3-21-8(C):

1. Where the request is not contrary to public interest;
2. Where, owing to special conditions, a literal enforcement of the SLDC will result in unnecessary hardship to the applicant; and
3. So that the spirit of the SLDC is observed and substantial justice is done.

Chapter 14, Section 14.9.7.5, Variance Conditions of approval.

1. The Planning Commission may impose conditions on a variance request necessary to accomplish the purposes and intent of the SLDC and the SGMP

and to prevent or minimize adverse impacts on the general health, safety and welfare of property owners and area residents.

2. All approved variances run with the land, unless conditions of approval imposed by the Planning Commission specify otherwise.
3. All approved variances automatically expire within one year of the date of approval, unless the applicant takes affirmative action consistent with the approval.

As required by the SLDC, the Applicants presented the Application to the Technical Advisory Committee (TAC) on March 17, 2016, at the regular scheduled monthly meeting, which satisfied the requirements set forth in Chapter 4, Section 4.4.4.3, Pre-application TAC Meeting and Table 4-1.

On April 28, 2016, the Application was presented to the Hearing Officer. The Hearing Officer recommended approval because an extraordinary and exceptional situation has been demonstrated based upon the intent to review the water catchment ordinance, the unintentional amending of the water catchment requirements by the SLDC and by the particular conditions of the subdivision.

Notice requirements were met as per Chapter 4, Section 4.6.3., General Notice of Application Requiring a Public Hearing, of the SLDC. In advance of a hearing on the Application, the Applicants provided an affidavit of posting of notice of the hearing, confirming that public notice posting regarding the Application was made for fifteen days on the property, beginning on April 13, 2016. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on April 13, 2016, as evidenced by a copy of that legal notice contained in the record. Notice of the hearing was sent to owners of land within 500' of the subject property and a list of persons sent a mailing is contained in the record.

This Application was submitted on March 22, 2016.

**RECOMMENDATION:**

**Staff is unable to recommend approval because this request is not in compliance with the SLDC and because the criteria for a variance have not been met.**

**As part of the 6 month review of the SLDC staff will be recommending to the Board of County Commissioners that the rainwater catchment section be amended to require cisterns only on houses of 2,500 sq. ft. or greater of heated area.**

**This matter went before the Hearing Officer for a hearing on April 28, 2016. The Hearing Officer recommends approval of the Application.**

**If the decision of the Planning Commission is to approve the Application, you may consider adopting the Hearing Officer's findings of fact and conclusions of law in the written recommendation.**

**EXHIBITS:**

1. Applicants Request
2. Recorded Survey Plats
3. Recorded Warranty Deeds
4. Aerial of Site and Surrounding Area
5. Chapter 7, Section 7.13.11.7. (Water Harvesting)
6. Ordinance 2003-6
7. Noticing
8. Hearing Officer Final Order

# DESIGN ENGINUITY



1421 Luisa Street Suite E, Santa Fe, New Mexico 87505  
PO Box 2758 Santa Fe, New Mexico 87504  
(505) 989-3551 FAX (505) 989-4740  
E-mail [oralynn@designenginuity.biz](mailto:oralynn@designenginuity.biz)

March 25, 2016

Santa Fe County Land Use  
Hand Delivered

RE: Variance of Cistern Requirements for 29, 33, 35, 37, 39 and 41 Vista Precioso, Aldea  
Subdivision

Dear Sirs/Madams

With the adoption of the SLDC in December of last year, a very significant code change occurred with regards to the storm water harvesting provisions. Specifically the old code required the installation of cisterns for homes of 2,500 square feet or more of heated space. The SLDC now requires cisterns for homes with 2,500 square feet of roofed area. Thus modest homes of 1,800 or 1,900 heated square feet now have to install cisterns. This is a huge cost on a moderately priced home. The required cistern systems are typically 3000 gallons in size and cost \$10,000 to \$14,000 to install.

This significant code modification was not properly vetted. The change was buried in the new code and even Penny Ellis-Green was unaware of the change until it was pointed out to her after the code was adopted. The adopted Santa Fe County Sustainable Growth Management Plan match the previous code language: "*Conservation of water in new and existing development is important for conservation purposes. All new commercial or dwelling units of 2,500 sq. ft. of heated area or greater will include a cistern that is buried, partial buried or within an insulated structure and is connected to a pump and a drip irrigation system to serve all landscaped areas.*" It seems that the change from heated space to roofed area may have been an inadvertent error.

Prior to the adoption of the SLDC, if a cistern was required, it could be sized to accommodate a one month demand of irrigation water. Many moderately priced homes in our community use very little water outdoors. The Santa Fe Community Housing Trust is developing 6 homes in the Aldea Subdivision. The lots are small, typically 4000 sq. ft. with a 70% lot coverage, leaving only 1200 sq. ft. for landscaping. The Trust will install xeriscape landscaping which will include two trees and three shrubs on a drip system along with rock mulch with a weed barrier. Annual water demand for the trees is about 750 gallons (10' diameter tree @ 9.49 gal/SF per NM Office of the State Engineer Technical Report 48), and the shrub is 80 gallons (3' diameter shrub @

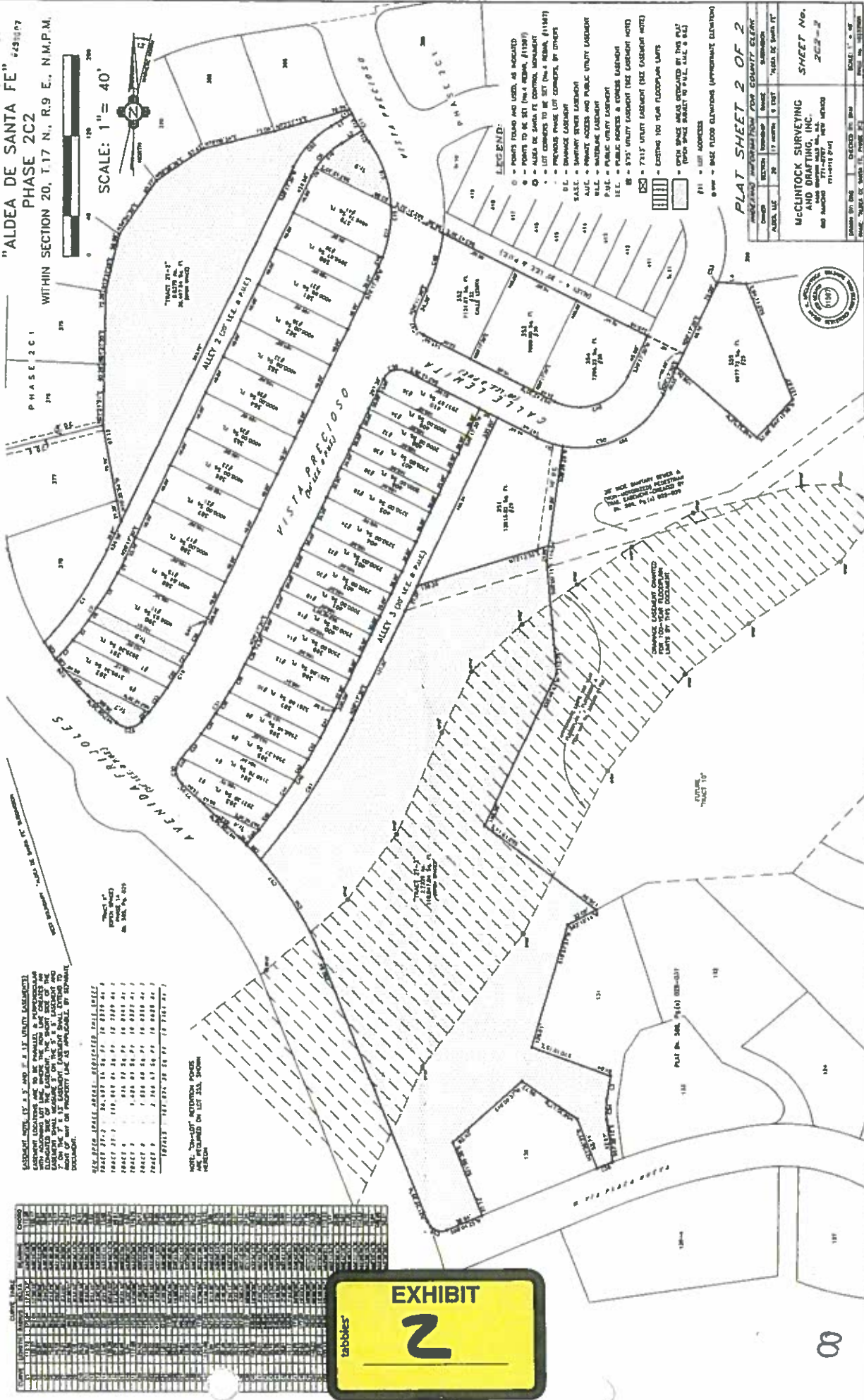


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"ALDEA DE SANTA FE" 649197  
 PHASE 2C2  
 WITHIN SECTION 20, T.17 N., R.9 E., N.M.P.M.



NOTE: 70'-10" INTERIOR FINISH ARE SHOWN ON LOT 310, 300M REGION.

LOT NO.	ACRES	AREA (SQ. FT.)	AREA (SQ. M.)
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PLAT SHEET 2 OF 2  
 COUNTY CLERK  
 COUNTY OF SANTA FE, N.M.  
 SHEET No. 2C2-2  
 McClintock Surveying and Drafting, Inc.  
 400 MADISON 771-8700  
 111-1111 771-8700







Return to First American Title Insurance Company  
File No. 1188393-SF01 KJS

**WARRANTY DEED**

Quality Concepts Investment Properties, Inc., a New Mexico corporation, for consideration paid, grant(s) to Santa Fe Community Housing Trust, a New Mexico non-profit corporation whose address is PO Box 713, Santa Fe, NM 87504-0713, the following described real estate in Santa Fe County, New Mexico:


Lots 379, 380, 381, 382, 383 and 384 of Aldea de Santa Fe Subdivision, Phase 2C2, as shown on plat filed in the office of the County Clerk, Santa Fe County, New Mexico on July 17, 2006, in Plat Book 629, pages 006-009 as Instrument No. 1442331.

**Subject to patent reservations, restrictions, and easements of record and taxes for the year 2008 and subsequent years.**

with warranty covenants.

WITNESS my/our hand(s) and seal(s) this Second day of May, 2008.

Quality Concepts Investment Properties, Inc.,  
a New Mexico corporation

  
By: Joseph Varnado, President

**Representative Capacity**

State of New Mexico            )  
  ) 5  
County of Santa Fe            )

This Instrument was acknowledged before me on May 02, 2008, by Joseph Varnado as President of Quality Concepts Investment Properties, Inc, a NM corporation, on behalf of said .


My commission expires: 5/22/10   
Notary Public

(Seal)



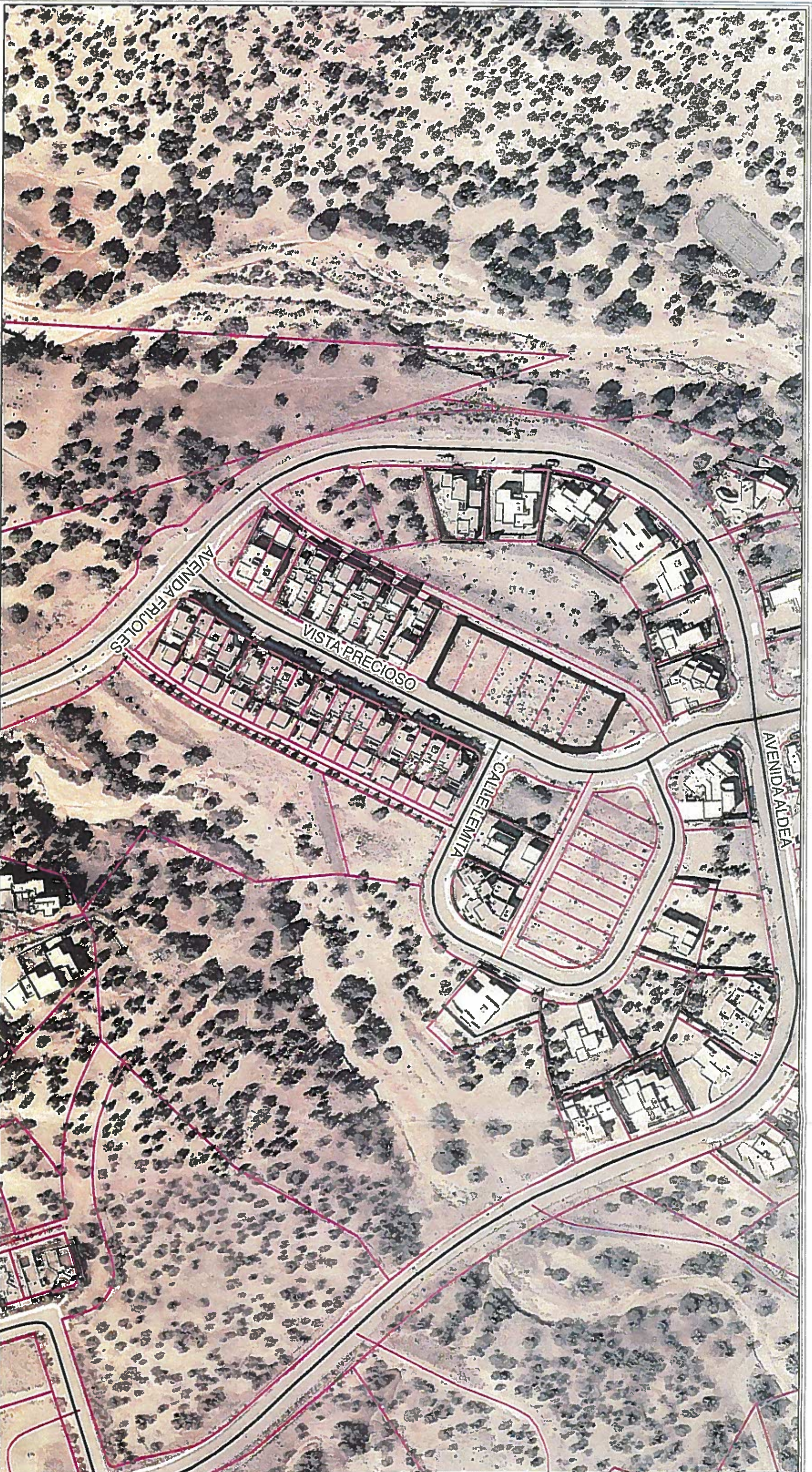
COUNTY OF SANTA FE            )  
STATE OF NEW MEXICO        ) ss  
WARRANTY DEED  
PAGES: 1

I Hereby Certify That This Instrument Was Filed for Record On The 6TH Day Of May, A.D., 2008 at 11:24 And Was Duly Recorded as Instrument # 1524768 Of The Records Of Santa Fe County

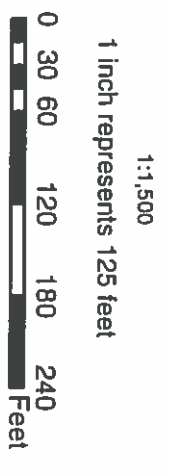
Witness My Hand And Seal Of Office  
Valerie Espinoza  
Deputy  County Clerk, Santa Fe, NM







- Legend**
-  Roads
  -  DRIVEWAYS
  -  PARCELS



2015 Imagery  
2 FOOT CONTOURS

This information is for re  
Santa Fe County assumes  
errors associated with the us  
User are solely respo  
confirming data accuracy.



April 11, 2016



**2. Fugitive Water.** Fugitive water is prohibited. No person, firm, corporation, county, state, federal, municipal or other governmental facility or operation shall cause or permit the occurrence of fugitive water.

a. Fugitive water means the pumping, flow, release, escape or leakage of any water from any pipe, valve, faucet, irrigation system or facility onto any hard surface such that water accumulates as to either create individual puddles in excess of ten (10) square feet in size or cause flow along or off of the hard surface or onto adjacent property or the public right-of-way, arroyo, or other water course, natural or manmade. Fugitive water also means, during the irrigation of landscaping, the escape or flow of water away from the landscaping plants being irrigated even if such flow is not onto a hard surface.

b. Fugitive water shall not include:

i. Incidental run-off caused by vehicle washing provided that a shut-off nozzle is in use;

ii. Periodic draining of swimming pools and spas;

iii. Storm run-off, including snowmelt run-off;

iv. Flowing resulting from temporary water system failures or malfunctions;

v. Water applied, such as in the cleaning of hard surfaces, to prevent or abate public health, safety or accident hazards when alternate methods are not available. The washing of outdoor eating areas and sidewalks is not included in this exemption,

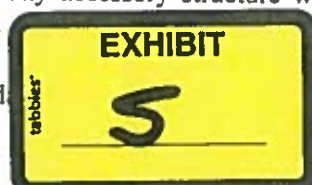
vi. Flow resulting from vandalism, high winds, emergencies and acts of God; or

vii. The occurrence of an unforeseeable or unpreventable failure or malfunction of plumbing or irrigation system hardware, prior to the issuance of a formal warning notice. Once a formal warning notice has been issued, the water user is instructed not to operate the faulty system until it is appropriately repaired, unless operating the system is integral to the operation of the facility. Once a warning notice has been issued, subsequent fugitive water events at the same location will be subject to issuance of citations.

#### 7.13.11.7. Water Harvesting.

##### 1. Rainwater Catchment Systems.

a. Rainwater catchment systems are required for all new construction whose roof area is 2,500 square feet or greater. Rainwater catchment systems are required for all remodeling of an existing structure whose roof area, after the remodeling, is 2,500 square feet or greater. Rainwater catchment systems are required of any accessory structure whose roof surface is 500 square feet or greater.



b. Systems shall be designed to capture rainwater from a minimum of 85% of the roofed area.

c. Structures whose roof surface is 2,500 sq. ft. or greater shall install a cistern that is buried or partially buried and insulated. The cistern shall be connected to a pump and a drip irrigation system to serve landscaped areas. Alternatively, if captured water is to be used for domestic purposes, appropriate plumbing and pumps may be used to convey water to the point of use.

d. A structure whose roof surface is 2,500 sq. ft. or less, and any accessory structure shall install as its rainwater catchment system: (i) rain barrels, (ii) cisterns, or (iii) passive water harvesting systems using berms, swales, or tree wells. The system shall capture water from at least 85% of the roofed surface.

e. Cisterns shall be sized to hold 1.15 gallons per square foot of roof area.

## **2. Catchment Requirements, Residential Structures.**

a. Systems shall be designed to capture rainwater from a minimum of 85% of the roofed area.

b. Structures whose roof surface is 2,500 sq. ft. or greater shall install a cistern that is buried or partially buried and insulated. The cistern shall be connected to a pump and a drip irrigation system to serve landscaped areas. Alternatively, if captured water is to be used for domestic purposes, appropriate plumbing and pumps may be used to convey that water to the point of use.

c. A structure whose roof surface is 2,500 sq. ft. or less, and any accessory structure whose roof surface is 500 sq. ft. or greater shall install rain barrels, cisterns or other water catchment system including passive water harvesting and infiltration techniques, berms, swales, and tree wells to capture rainwater from a minimum of 85% of the roofed area.

d. Cisterns shall be sized to hold 1.15 gallons per square foot of roof area that is captured.

## **3. Catchment Requirements, Non-residential structures:**

a. Systems shall be designed to capture rainwater from the roofed area.

b. Cisterns shall be buried, partially buried or insulated and shall be connected to a pump and a drip irrigation system to serve landscaped areas. Alternatively, if captured water is to be used for domestic purposes, appropriate plumbing and pumps may be used to convey that water to the point of use.

c. Cisterns shall be sized to hold 1.5 gallons per square foot of roofed area or the equivalent of a one month supply of water.

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# SANTA FE COUNTY

Ordinance No. 2003-6

2683661

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An Ordinance Amending Ordinance 1996-10, the Santa Fe County Land Development Code, Article III, Section 4.4.1 and Article III, Section 2.4.1 to require rainwater catchment systems for all commercial and residential development.

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**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY THAT THE SANTA FE COUNTY LAND DEVELOPMENT CODE IS HEREBY AMENDED AS FOLLOWS:**

**ARTICLE III, SECTION 2.4.1 Construction of One to Four Dwellings**

2.4.1a. The following submittals and review shall apply to an application for a development permit involving the construction, alteration or repair of one to four dwellings or the construction, alteration or repair of an accessory structure:

1. Submittals

(a) The applicant shall fill out a development permit application on a form provided by the Code Administrator. The application shall be accompanied by the following:

(vii) A water harvesting plan to capture drainage from a minimum of 85% of the roofed area for use as landscape irrigation shall be submitted.

a. Homes of 2,500 sq. ft. of heated area or greater shall install a cistern that is buried, partially buried or within an insulated structure and is connected to a pump and a drip irrigation system to serve all landscaped areas. Cisterns shall be sized to hold 1.15 gallons per square foot of heated area but this figure may be adjusted based on proposed landscaping. The capacity of the cistern shall be approved by the Land Use Administrator.

b. Homes smaller than 2,500 sq.ft. of heated area shall install rain barrels, cisterns or other water catchment basins to capture drainage from noted areas.

c. The water harvesting plan shall be in accordance with general guidelines prepared by the Land Use Administrator.



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ARTICLE III, SECTION 4.4.1 Submittals

b. A development plan shall be submitted for individual uses to be permitted within the district, as follows:

6) A water harvesting plan to collect all roof drainage for use as landscape irrigation shall be submitted.

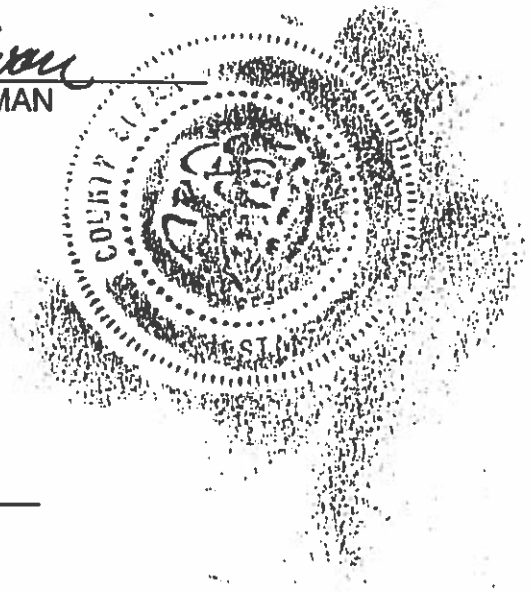
a. Cisterns shall be buried, partially buried or within an insulated structure and shall be connected to a pump and a drip irrigation system to serve all landscaped areas. Cisterns shall be sized to hold 1.5 gallons per square foot of roofed area. The size of the cistern may be adjusted to provide a month's worth of landscaping water. The size of the cistern shall be approved by the Land Use Administrator.

b. The water harvesting plan shall be in accordance with the general guidelines prepared by the Land Use Administrator.

PASSED, APPROVED, and ADOPTED this 14 day of October, 2003, by the Santa Fe County Board of County Commissioners.

*[Signature]*  
JACK SULLIVAN, CHAIRMAN

ATTEST: *[Signature]*  
REBECCA BUSTAMANTE  
SANTA FE COUNTY CLERK



APPROVED AS TO FORM:

*[Signature]* 10-14-03  
COUNTY ATTORNEY

CERTIFICATE OF FILING

I, Rebecca Bustamante, County Clerk, do hereby certify that the foregoing ordinance, designated as Ordinance No. 2003 - 10, was filed in my office on the 15 day of Oct., 2003, in book Number 2683 at Page 661-663

COUNTY OF SANTA FE 12957 SS 832 SANTA FE COUNTY CLERK  
STATE OF NEW MEXICO

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD ON THE 15 DAY OF Oct A.D. 20 03 AT 12:12 O'CLOCK P M AND WAS DULY RECORDED IN BOOK 2683 PAGE 661-663 OF THE RECORDS OF SANTA FE COUNTY

*[Signature]*



WITNESS MY HAND AND SEAL OF OFFICE  
REBECCA BUSTAMANTE  
COUNTY CLERK, SANTA FE COUNTY, N.M.

*[Signature]*  
DEPUTY

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# SANTA FE NEW MEXICAN

## Ad Proof / Order Confirmation / Invoice

Account Number

1184

Ad Order Number

0000163905

DESIGN ENGINUITY, LLC

LEGAL # 80879

**CASE# V 16-5030 Santa Fe Community Housing Trust NOTICE OF PUBLIC HEARING**

Notice is hereby given that a public hearing will be held to consider a request by Santa Fe Community Housing Trust, Applicant, Design Enginuity, Agent, request a variance of Chapter 7, Section 7.13.11.7, Water Harvesting of Ordinance 2015-11, the Sustainable Land Development Code (SLDC). The Applicant proposes that the existing six (6) lots within the Aldea Subdivision be allowed to adhere to prior County water harvesting requirements which were set forth in Ordinance 2003-6 (An Ordinance Amending Ordinance 1996-10, the Santa Fe County Land Development Code, Article III, Section 4.4.1 and Article III, Section 2.4.1 to require rainwater catchment systems for all commercial and residential development). The Aldea Subdivision is within the Tres Arroyos Del Poniente Community District (TAPCD) Overlay and is zoned as a Planned Development District (PD-3). The lots are located on Vista Precioso, within Section 20 Township 17 North, Range 9 East (Commission District 2.)

A public hearing will be held in the County Commission Chambers of the Santa Fe County Courthouse, corner of Grant and Palace Avenues, Santa Fe, New Mexico on the 28th day of April 2016, at 3:00 p.m. on a petition to the Santa Fe County Hearing Officer and on the 16th day of June 2016, at 4:00 p.m. on a petition to the Santa Fe County Planning Commission.

Please forward all comments and questions to the County Land Use Administration Office at 986-6225.

All interested parties will be heard at the Public Hearing prior to the Hearing Officer/Planning Commission taking action. All comments, questions and objections to the proposal may be submitted to the County Land Use Administrator in writing to P.O. Box 276, Santa Fe, New Mexico 87504-0276; or presented in person at the hearing.

Published in the Santa Fe New Mexican on Wednesday, April 13, 2016.



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106 AVENIDA ALDEA  
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11 CALLE DE MONTANAS  
SANTA FE, NM 87507-7903

PIER, ALEXIS F (TRUSTEE)  
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RASHIDI, HESSAM & VIOLET RAZAVI  
91 AVENIDA ALDEA  
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LEMITA INVESTMENTS I, LLC  
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94 AVENIDA ALDEA  
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9 CALLE LEMITA  
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MARKS, THOMAS JR  
102 AVENIDA ALDEA  
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JASON, JACK M & LINDA GREGORY  
92 AVENIDA ALDEA  
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4 LA VIDA TRL  
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28 VISTA PRECIOSO  
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HARMELINK  
52471 SUNFIELD LOOP  
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HOWARD, SUSAN K  
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138 AVENIDA FRIJOLES  
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140 AVENIDA FRIJOLES  
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20 VISTA PRECIOSO  
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HULTBERG, JOSIELYNDA R & BRETT  
36 VISTA PRECIOSO  
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30 VISTA PRECIOSO  
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14 VISTA PRECIOSA  
SANTA FE, NM 875073450

DUPONT, DENISE  
12 VISTA PRECIOSO  
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PRINT, HAYLEY E  
22 VISTA PRECIOSO LN  
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LANDKAMER, MARK L & FREDDIE M.  
REPPOND  
142 AVENIDA FRIJOLES  
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GREGORY, LINDA  
92 AVENIDA ALDEA  
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RODRIGUEZ, ROSALIA  
148 AVENIDA FRIJOLES  
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AUSTIN, PAMELA S  
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SANTA FE, NM 87507

FORDHAM, GERALD F & COLLETTE L  
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HUDSPETH, GEORGE A JR & MELISSA C  
28 CALLE LEMITA  
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GRIECO, ANTHONY J & PAMELA M  
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26 VISTA PRECIOSA  
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82 AVENIDA FRIJOLES  
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15 CALLE VECINOS  
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5 B W VIA PLAZA NUEVA  
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21 VISTA PRESLOSA  
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23 VISTA PRECIOSO  
SANTA FE, NM 87507

THOMPSON, T BRADLEY & PATRICIA A  
11 VISTA PRECIOSA  
SANTA FE, NM 87507

MOORE, LINDA  
34 VISTA PRECIOSO  
SANTA FE, NM 87507

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HOUSING(TRUST)  
PO BOX 713  
SANTA FE, NM 875040713  
LA TIERRA TOWNHOUSES LLC  
PO BOX 9146  
SANTA FE, NM 87504

SWAGER, MARK H & PATTY A  
17 VISTA PRECIOSO  
SANTA FE, NM 87507-3448

**CERTIFICATION OF POSTING**

I herby certify that the public notice posting regarding a Site Development Plan Case # 16-5050 was posted for 15 days on the property beginning the 13<sup>th</sup> day of April, 2016. \*\*



\_\_\_\_\_  
Signature

\*Photo of posting taken from a public road must be provided with affidavit.

**\*\*PLEASE NOTE:** Public notice is to be posted on the most visible part of the property. Improper legal notice will result in re-posting for an additional 15 days. It is the Applicant's responsibility to ensure that the notice is on the property for the full 15 days. Posted notice shall be removed no later than seven (7) days after a final decision has been made on the application.

STATE OF NEW MEXICO    }  
  }  
COUNTY OF SANTA FE    }

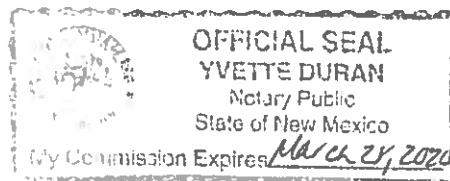
The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of April, 2016, By Charlie Cronzas.



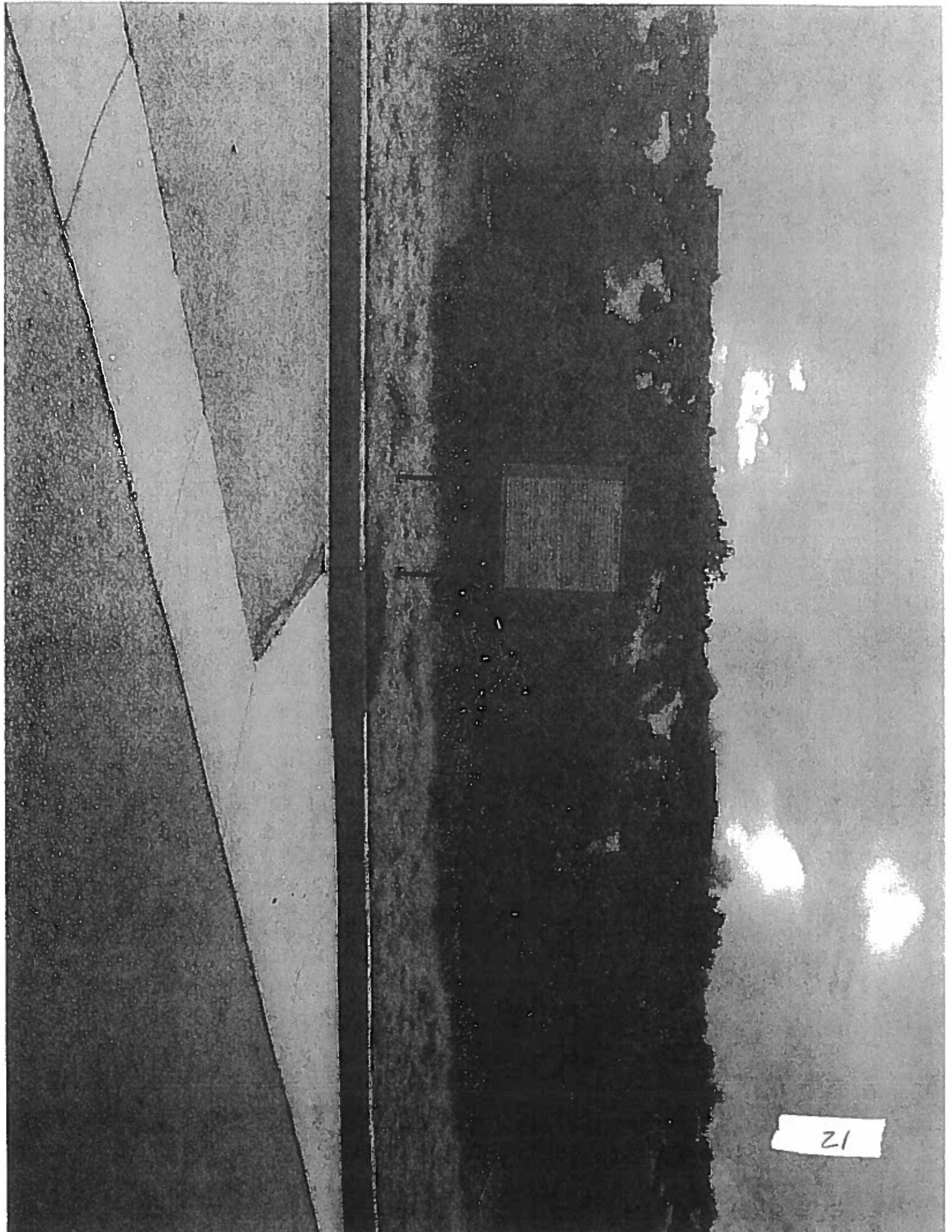
\_\_\_\_\_  
Notary Public

My Commission Expires:

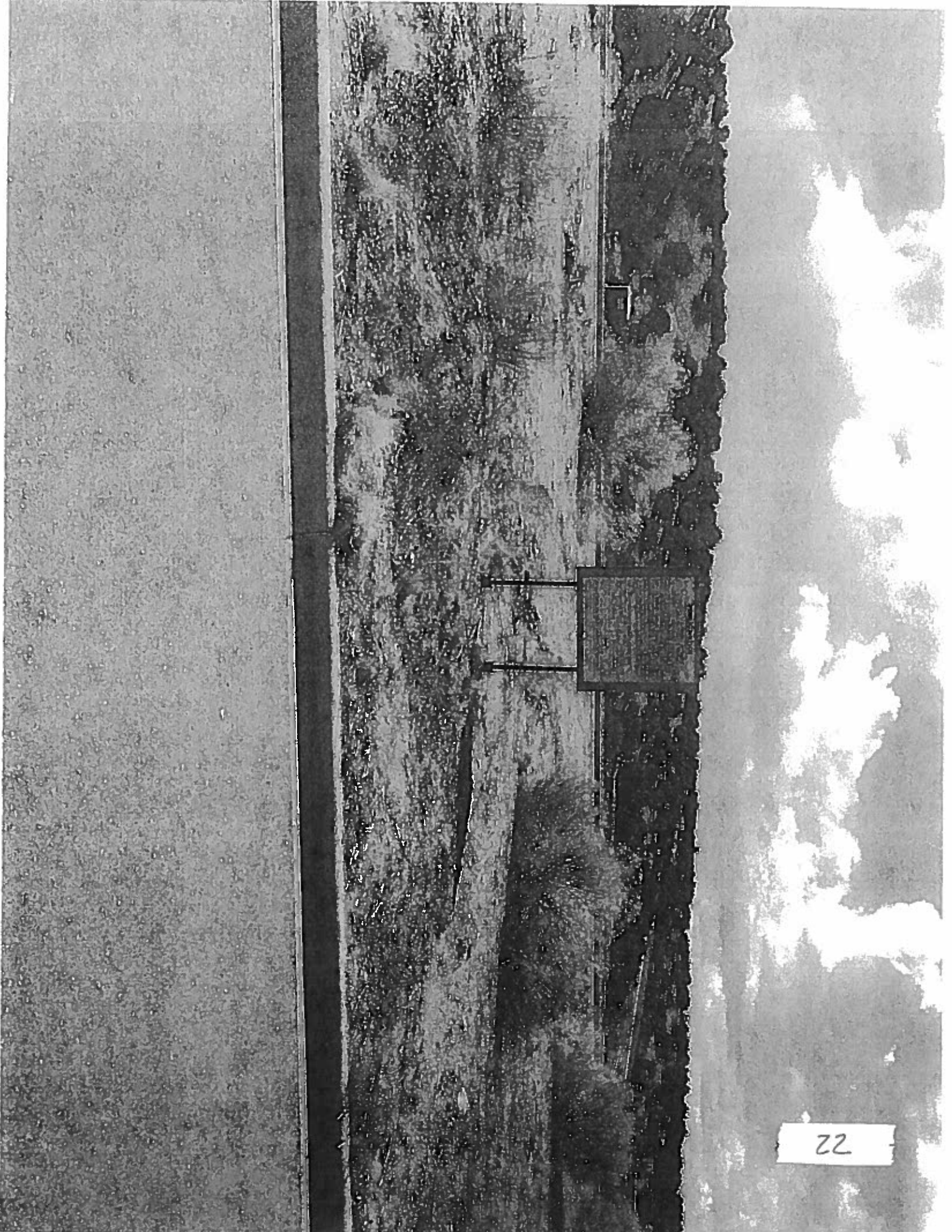
March 28, 2020







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CASE NO. V 16-5030  
Santa Fe Community Housing Trust  
Santa Fe Community Housing Trust, Applicant

**RECOMMENDED DECISION AND ORDER**

**THIS MATTER** came before the Sustainable Land Development Code (SLDC) Hearing Officer for hearing on April 28, 2016, on the application of Santa Fe Community Housing Trust (Applicant) for a Variance of Chapter 7, Section 7.13.11.7, Water Harvesting, of Ordinance 2015-11, of the SLDC to Allow the Remaining Six (6) Lots Within the Aldea Subdivision to be Allowed to Adhere to Prior County Water Harvesting Requirements Which Were Set Forth in Ordinance 2003-6 (An Ordinance Amending Ordinance 1996-10, The Santa Fe County Land Development Code, Article III, Section 4.4.1 And Article III, Section 2.4.1 To Require Rainwater Catchment Systems For All Commercial And Residential Development). The Aldea Subdivision is within the Tres Arroyos Del Poniente Community District (TAPCD) Overlay and is zoned as a Planned Development District (PD-3). The lots are located on Vista Precioso within Section 20, Township 17 North, Range 9 East (Commission District 2). The Hearing Officer, having reviewed the application, staff reports, and having conducted a public hearing on the request, recommends that the application is well-taken and should be granted, and makes the following findings of fact and conclusions of law:

1. On March 22, 2016, the Applicant submitted an application for a Variance of Chapter 7, Section 7.13.11.7, Water Harvesting, of Ordinance 2015-11, of the SLDC to Allow the Remaining Six (6) Lots Within the Aldea Subdivision to be Allowed to Adhere to Prior County Water Harvesting Requirements Which Were Set Forth in Ordinance 2003-6 (An Ordinance Amending Ordinance 1996-10, The Santa Fe County Land Development Code,

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Article III, Section 4.4.1 And Article III, Section 2.4.1 To Require Rainwater Catchment Systems For All Commercial And Residential Development).

2. The lots are located on Vista Precioso within Section 20, Township 17 North, Range 9 East.

3. The Aldea Subdivision is within the Tres Arroyos Del Poniente Community District (TAPCD) Overlay and is zoned as a Planned Development District (PD-3) as defined by the SLDC, Chapter 8, Section 8.10.2.

4. Chapter 7, Section 7.13.11.7.2, Water Harvesting, Catchment Requirements, Residential structures, states:

- a. Systems shall be designed to capture rainwater from a minimum of 85% of the roofed area.
- b. Structures whose roof surface is 2,500 sq. ft. or greater shall install a cistern that is buried or partially buried and insulated. The cistern shall be connected to a pump and a drip irrigation system to serve landscaped areas. Alternatively, if captured water is to be used for domestic purposes, appropriate plumbing and pumps may be used to convey that water to the point of use.
- c. A structure whose roof surface is 2,500 sq. ft. or less, and any accessory structure whose roof surface is 500 sq. ft. or greater shall install rain barrels, cisterns or other water catchment system including passive water harvesting and infiltration techniques, berms, swales, and tree wells to capture rainwater from a minimum of 85% of the roofed area.
- d. Cisterns shall be sized to hold 1.15 gallons per square foot of roof area that is captured.

5. Chapter 14, Section 14.9.7.1, Variances, Purpose, states:

The purpose of this section is to provide a mechanism in the form of a variance that grants a landowner relief from certain standards in this Code where, due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner. The granting of an area variance shall allow a deviation from the dimensional requirements of the

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Code, but in no way shall it authorize a use of land that is otherwise prohibited in the relevant zoning district.

6. Chapter 14, Section 14.9.7.4, Variance Review Criteria, states:

A variance may be granted by only a majority of all the members of the Planning Commission (or the Board, on appeal from the Planning Commission) where authorized by NMSA 1978, Section 3-21-8(C):

1. Where the request is not contrary to public interest;
2. Where, owing to special conditions, a literal enforcement of the SLCD will result in unnecessary hardship to the applicant; and
3. So that the spirit of the SLDC is observed and substantial justice is done.

7. Chapter 14, Section 14.9.7.5 Variance Conditions of Approval, states:

1. The Planning Commission may impose conditions on a variance request necessary to accomplish the purposes and intent of the SLDC and the SGMP and to prevent or minimize adverse impacts on the general health, safety and welfare of property owners and area residents.
2. All approved variances run with the land, unless conditions of approval imposed by the Planning Commission specify otherwise.
3. All approved variances automatically expire within one year of the date of approval, unless the applicant takes affirmative action consistent with the approval.

8. As required by the SLDC, the Applicant presented the application to the Technical Advisory Committee (TAC) on March 17, 2016, at the regular scheduled monthly meeting, as required by Chapter 4, Section 4.4.4.3 Pre-application TAC Meeting and Table 4-1.

9. Notice requirements were met as per Chapter 4, Section 4.6.3., General Notice of Application Requiring a Public Hearing, of the SLDC. In advance of a hearing on the application, the Applicants provided an affidavit of posting of notice of the hearing, confirming that public notice posting regarding the application was made for fifteen days on the property, beginning on April 13, 2016. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on April 13, 2016, as evidenced by a copy of that legal notice contained in the record. Notice of the hearing was sent to owners of land within 500' of the subject property and a list of persons sent a mailing is contained in the record.

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10. At the public hearing before the Hearing Officer on April 28, 2016, County staff did not recommend approval, stating that:

1. This request is not in compliance with the SLDC and because the criteria for a variance have not been met.
2. A part of the 6-month review of the SLDC staff will be recommending to the Board of County Commissioners that the rainwater catchment section be amended to require cisterns only on houses of 2,500 sq. ft. or greater of heated area.
3. Staff requests the Hearing Officer memorialize findings of fact and conclusions of law in a written order. The Santa Fe County Planning Commission (SFCPC) will be holding a public hearing on this matter on June 16, 2016.

11. In support of the application, the Applicant provided testimony that County staff informed the applicant that the change to the rainwater catchment requirements contained in the SLDC, effective January 15, 2016, was unintentional and that staff will be taking forward an amendment at the six-month review of the SLDC to revert the rainwater catchment standards to heated floor area rather than total roof surface.

12. The lots subject to the variance request will be built for affordable housing. The cost of installing cisterns, which must be added to the price of the house, is greater than the cost of rain barrels.

13. The lots are all small in size making it more difficult to install cisterns on the site.

14. Due to the small lot size, the lot owners would be unlikely to utilize all the water collected by the cisterns on their lots.

15. At the public hearing, no one spoke in opposition to the request.

16. The use for which the variance is requested:

- a. Is not contrary to public interest;
- b. Owing to special conditions, a literal enforcement of the SLCD will result in unnecessary hardship to the applicant; and
- c. Granting the variance will result in the spirit of the SLDC being observed and substantial justice done.

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17. An extraordinary and exceptional situation has been demonstrated based upon the intent to review the water catchment ordinance, the unintentional amending of the water catchment requirements by the SLDC and by the particular conditions of the property.

WHEREFORE, the Hearing Officer hereby recommends approval of the Variance of Chapter 7, Section 7.13.11.7, Water Harvesting of Ordinance 2015-11, of the SLDC to Allow the Remaining Six (6) Lots Within the Aldea Subdivision to Adhere to Prior County Water Harvesting Requirements Which Were Set Forth in Ordinance 2003-6 (An Ordinance Amending Ordinance 1996-10, The Santa Fe County Land Development Code, Article III, Section 4.4.1 And Article III, Section 2.4.1 To Require Rainwater Catchment Systems For All Commercial And Residential Development).

**IT IS SO ORDERED.**

*Nancy R. Long*

Nancy R. Long  
Hearing Officer

Date: 5-13-16

COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss

ORDER (N/C)  
PAGES: 5

I Hereby Certify That This Instrument Was Filed for Record On The 23RD Day Of May, 2016 at 09:15:33 AM And Was Duly Recorded as Instrument # 1794104 Of The Records Of Santa Fe County

*Geraldine Salazar*  
Deputy \_\_\_\_\_  
Witness My Hand And Seal Of Office  
Geraldine Salazar  
County Clerk, Santa Fe, NM



SFC CLERK RECORDED 05/23/2016