

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: Planning Commission

FROM: Mathew Martinez, Development Review Specialist. *MEM*

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

FILE REF.: Case # V 16-5040 Tessera Subdivision

ISSUE:

Homewise Inc., Applicants, Design Enginuity, Agent, request a variance of Chapter 7, Section 7.13.11.7, Water Harvesting of Ordinance No. 2015-11, the Santa Fe County Sustainable Land Development Code (SLDC). The Applicant requests that the remaining 34 lots within the Tessera Subdivision Phase I not be required to provide water harvesting cisterns for homes that are less than 2,500 sq. ft. of heated floor area. The Tessera Subdivision is within the Tres Arroyos del Poniente Community District (TAPCD) Overlay and is zoned as a Planned Development District (PD-4). The property is located via NM 599, within Section 20 & 17 Township 17 North, Range 9 East, Commission District 2.

Vicinity Map:



Site Location

SUMMARY:

The Applicants acquired the property as evidenced by warranty deeds recorded in the records of the Santa Fe County Clerk on September 28, 2012, as Instrument # 1683091. The Tessera Residential Subdivision Phase One and Phase Two Plats were recorded in the Santa Fe County Clerk's Office on April 5, 2007, Page 5-14 Book 631. Prior to enactment of the SLDC, development on these lots were 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 Applicants state that with the adoption of the SLDC, a significant code change occurred in regards to the storm water harvesting provisions. The previous code required the installation of cisterns for homes of 2,500 sq. ft. or more of heated area. The SLDC now requires cisterns for homes with 2,500 sq. ft. of roofed area. Homes of 1,800 or 1,900 heated sq. ft. now have to install cisterns and that this is a huge cost on a moderately priced home. The 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 a one month demand of irrigation water. Many of these homes in the Tessera community use very little water outdoors. The Tessera project has a natural coverage of pinon and juniper trees. Homewise installs xeriscape landscaping in the front yard. Typically, adding 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 @ 8.89gal/SF). Thus, the anticipated annual irrigation water demand at Tessera is 1,740 gallon per year. Homes in Tessera typically have rain barrels beneath canals that provide much of the needed irrigation water, and it seems illogical to require homeowners to install a system that far exceeds their needs especially at a cost that some buyers cannot afford.

The Applicants request a variance of Chapter 7, Section 7.13.11.7, Water Harvesting of the SLDC. The Applicant requests that the remaining 34 lots within Phase I of Tessera Subdivision be allowed to adhere to prior County water harvesting requirements which were set forth in Ordinance No. 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). Both Ordinance No. 2003-6 and Ordinance No. 1996-10 were repealed when the SLDC was adopted.

Tessera Phase 1 Residential Subdivision consists of 87 lots, which are zoned as a Planned Development District (PD-4) and is within the Tres Arroyos del Poniente Community District Overlay (TAPCD), as defined by the SLDC, Chapter 8, Section 8.10.3.

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 came 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 finding of fact and conclusion 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. 2(b) (Water Harvesting)
6. Ordinance 2003-6
7. Noticing
8. Hearing Officer Final Order

DESIGN ENGINEUITY



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@designengineuity.biz

March 25, 2016

Santa Fe County Land Use
Hand Delivered

RE: Variance of Cistern Requirements for Tessera Phase 1 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.

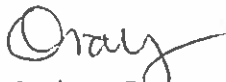
Prior to the adoption of the SLDC, if a cistern was required, it could be sized to accommodate a one month demand of irrigation water. Many moderately priced homes in our community use very little water outdoors. The Tessera project has a natural coverage of pinon and juniper trees. Homewise installs xeriscape landscaping in the front yard. Typically adding 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 @ 8.89gal/SF). Thus the anticipated annual irrigation water demand at Tessera is 1740 gallon per year. Homes in Tessera typically have rain barrels beneath canales that provide much of the



needed irrigation water. It seems illogical to require homeowners to install a system that far exceeds their needs especially at a cost that some buyers cannot afford.

We respectfully request a variance to allow new construction within the Tessera Phase 1 Subdivision to follow the previous code requirements and the Santa Fe County Sustainable Growth Management Plan recommendations which would require only those homes with 2,500 sq. ft. or more of heated space to have a cistern. We will continue to use rain barrels beneath canales for homes of less than 2,500 sq. ft. of heated space.

Sincerely,



Oralynn Guerrerortiz
Agent for Homewise

Attachment: Copies of Relevant New and Old Code

PLAT OF SURVEY

SHOWING
TESSERA SUBDIVISION, PHASE ONE
AND PHASE TWO RESERVED FOR FUTURE DEVELOPMENT
 SANTA FE COUNTY, NEW MEXICO

APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY, NEW MEXICO, ON 11-18-05

651818

SURVEY DATA - SHEET INDEX
 5-1 THIS SHEET, COVER MAPS, AND INDEX.
 5-2 BOUNDARY SURVEY OF SURVEYING CONDITIONS.
 5-3 EXISTING TOPOGRAPHY WITH SUBDIVISION DATA.
 5-4 PROPOSED LOTS AND OPEN SPACES WITHIN PHASE ONE.
 5-5 PHASE ONE LOTS 1-18, 86-88 AND 88-90.
 5-6 PHASE ONE LOTS 91-100 AND 101-110.
 5-7 PHASE ONE LOTS 111-120 AND 121-130.
 5-8 PHASE ONE LOTS 131-140 AND 141-150.



CITY OF SANTA FE AND SANTA FE COUNTY APPROVAL:
 APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY, NEW MEXICO, ON 11-18-05

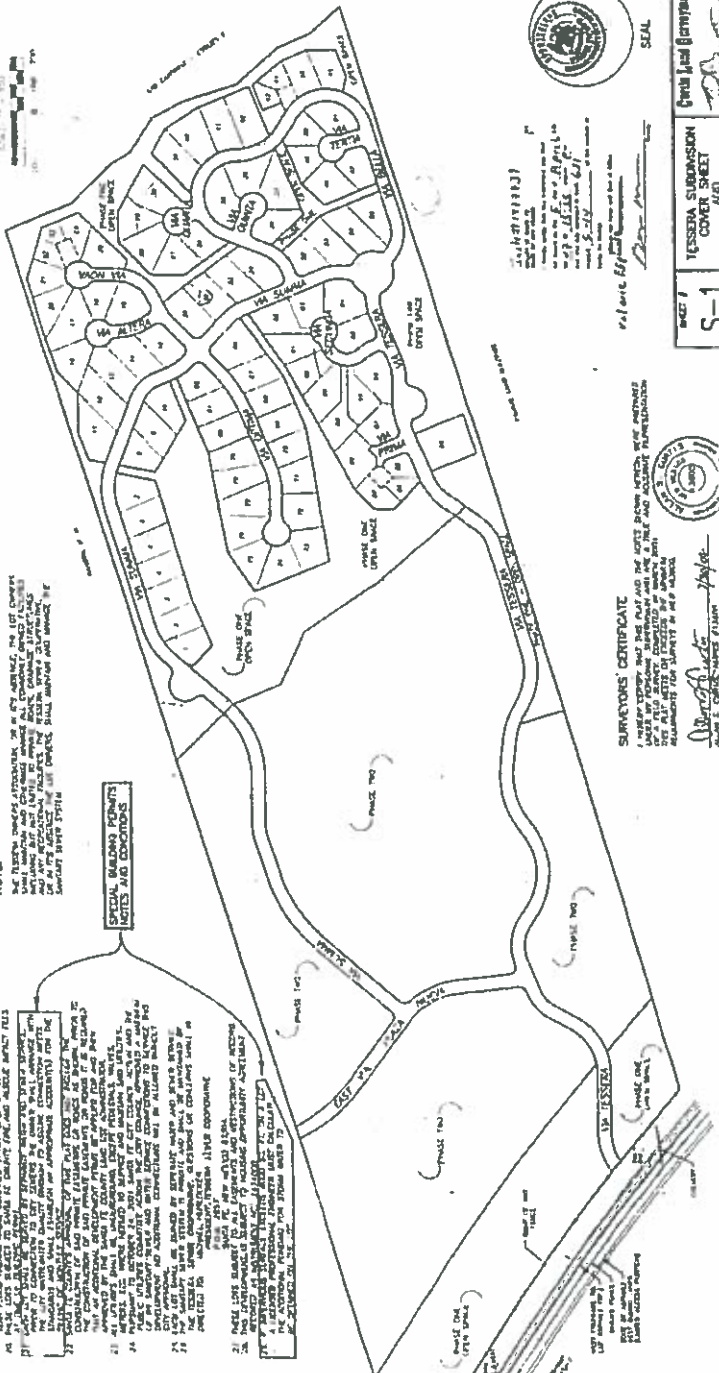
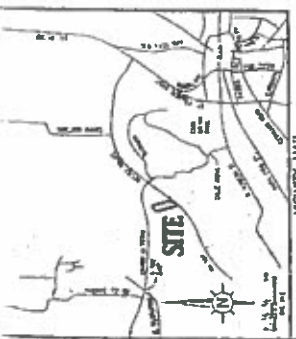
[Signatures and dates]

NOTE:
 THE SURVEYOR HAS CONDUCTED A VISUAL INSPECTION OF THE PROPERTY AND HAS FOUND THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF HIS KNOWLEDGE AND BELIEF. THE SURVEYOR HAS ALSO CONDUCTED A VISUAL INSPECTION OF THE SURROUNDING AREAS AND HAS FOUND THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF HIS KNOWLEDGE AND BELIEF.

SPECIAL BUILDING PERMITS NOTES AND RECORDS

DEDICATION AND AFFIDAVIT
 I, the undersigned, being duly sworn, depose and say that the information contained herein is true and correct to the best of my knowledge and belief. I am a duly licensed and qualified surveyor in the State of New Mexico. I have personally conducted the survey and have not been aided by any other person in the conduct of the same. I have not been paid for this service. I have not been influenced by any person in the conduct of the same. I have not been influenced by any person in the conduct of the same. I have not been influenced by any person in the conduct of the same.

GENERAL NOTES AND CONDITIONS:
 1. THIS SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE SURVEYING ACT OF 1968 AND THE RULES AND REGULATIONS THEREUNDER.
 2. THE SURVEYOR HAS CONDUCTED A VISUAL INSPECTION OF THE PROPERTY AND HAS FOUND THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF HIS KNOWLEDGE AND BELIEF.
 3. THE SURVEYOR HAS ALSO CONDUCTED A VISUAL INSPECTION OF THE SURROUNDING AREAS AND HAS FOUND THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF HIS KNOWLEDGE AND BELIEF.



SEAL

TESSERA SUBDIVISION COVER SHEET
 SHEET 1 OF 1
 INDEX TO PLAN SET

SURVEYOR'S CERTIFICATE
 I, the undersigned, being duly sworn, depose and say that the information contained herein is true and correct to the best of my knowledge and belief. I am a duly licensed and qualified surveyor in the State of New Mexico. I have personally conducted the survey and have not been aided by any other person in the conduct of the same. I have not been paid for this service. I have not been influenced by any person in the conduct of the same. I have not been influenced by any person in the conduct of the same.

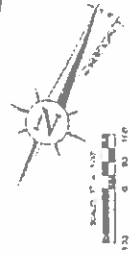
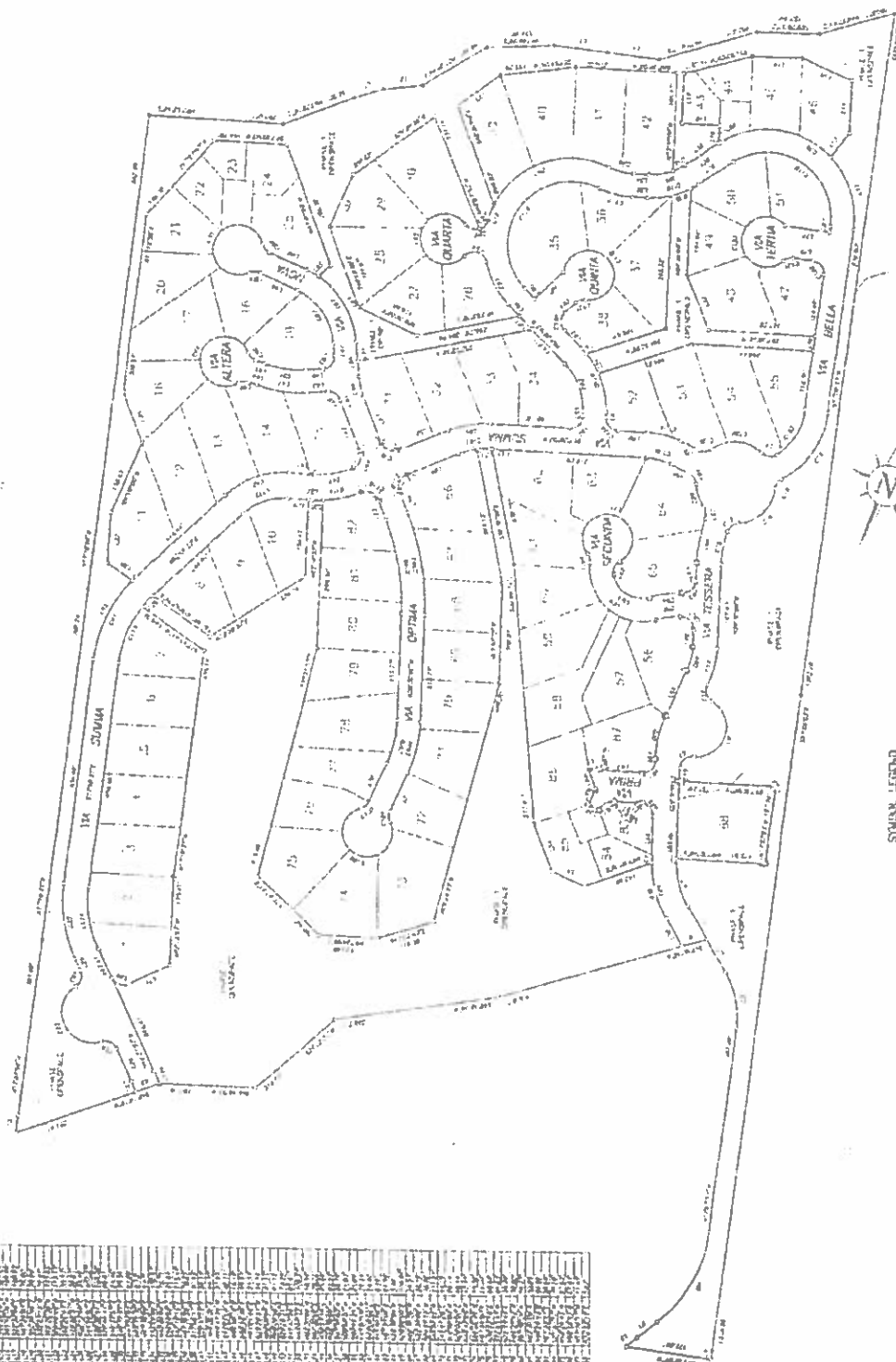


SEAL

EXHIBIT
 2

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8214699

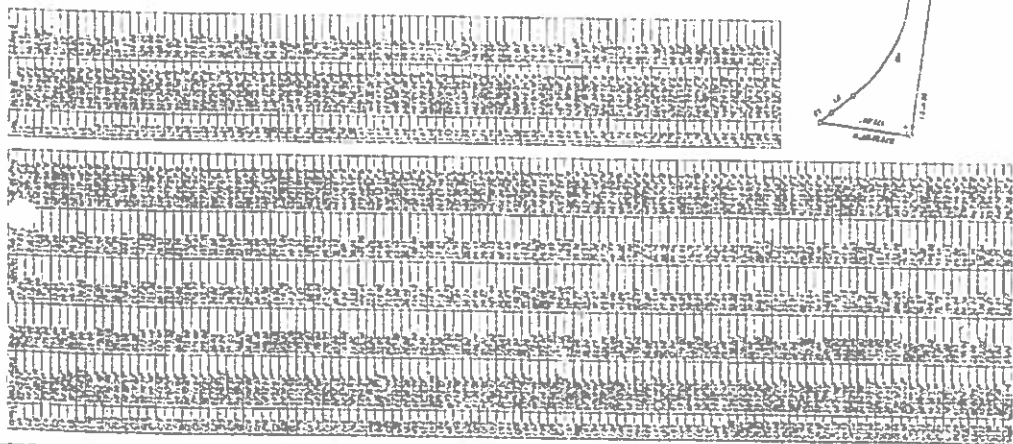


SYMBOL LEGEND
 1. TREE
 2. SHRUB
 3. BUSH
 4. PALM TREE
 5. PALM SHRUB

8214699

PHASE 01B
 S-4
 1994.08.08

DATA L&D GROUP INC.



Special
WARRANTY DEED

Los Alamos National Bank, a National Bank, for consideration paid, grant(s) to Homewise, Inc., a New Mexico Corporation, whose address is 1301 Siler Road, Bldg D, Santa Fe, NM, 87505 the following described real estate in Santa Fe County, New Mexico

Lots 1 through 10, 21 through 24, 26 through 34, 36 through 53, 55 through 69 and 71 through 88, as shown and delineated on plat entitled "Plat Showing Tessera Subdivision, Phase One and Phase Two (Reserved for Future Dev't) Within Sec. 17 & 20, T 17 N, R 9 E, N.M.P.M., Santa Fe County, New Mexico", filed April 5, 2007 as Instrument No. 1477739 and recorded in Plat Book 651 at pages 005-014, records of Santa Fe County, New Mexico.

AND

Future Phase Two, as shown and delineated on plat entitled "Plat Showing Tessera Subdivision, Phase One and Phase Two (Reserved for Future Dev't) Within Sec. 17 & 20, T 17 N, R 9 E, N.M.P.M., Santa Fe County, New Mexico", filed April 5, 2007 as Instrument No. 1477739 and recorded in Plat Book 651 at pages 005-014, records of Santa Fe County, New Mexico.

AND

All that tract of land identified as "South Part" as shown on plat entitled "Boundary Survey Plat prepared for The College of The Christian Brothers of New Mexico, showing properties within SHC420 Lot 2, SHC1184 Lot 2, SHC911 Lot 1, SHC1184 Lot 1, SHC422 Lot 3, SHC543, SHC2530, SHC514 Lot 1, SHC914, SHC410, SHC486 Lot 2, westerly portion SHC458 all within Sections 17, 20, 21, 28 and 29, T17N, R9E, NMPM...", filed in the office of the County Clerk, Santa Fe County, New Mexico on December 6, 1999, in Plat Book 430, page 013, as Document No. 1099-047.

SUBJECT TO Restrictions, reservations and easements of record

With special warranty covenants

WITNESS my hand and seal this 28th day of September, 2012

Los Alamos National Bank

By:



Joaquin J. Sanchez, In house inspector

ACKNOWLEDGEMENT

STATE OF NEW MEXICO

COUNTY OF SANTA FE

) ss

This instrument was acknowledged before me on the 28th day of September 2012, by Joaquin J. Sanchez, In house inspector on behalf of Los Alamos National Bank, a National Bank.



Fantax
Notary Public

My Commission Expires

→ 11/11

(Seal)



Recorded 10/23/12 by 28/12 S.F.C.



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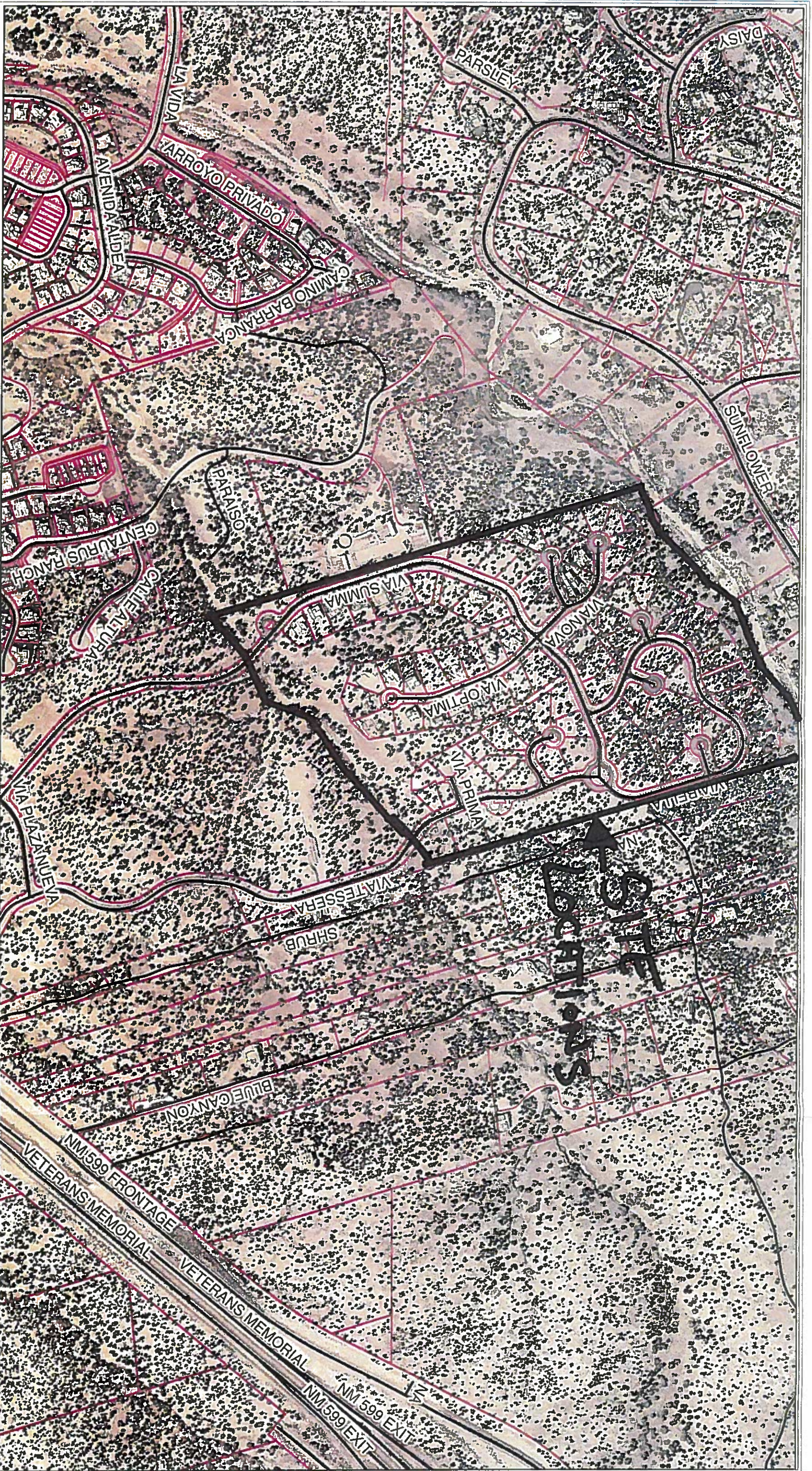
COUNTY OF SANTA FE 1
STATE OF NEW MEXICO 1w

SPECIAL WARRANTY DEED
PAGE 2

I Hereby Certify That This Instrument Was Filed for
Record On The 28th Day Of September, A.D., 2012 at 04:53:33 PM
And Was Duly Recorded as Instrument # 1683091
Of The Records Of Santa Fe County

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

Deputy - MSAI ZR



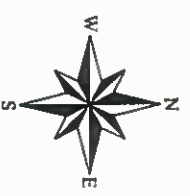
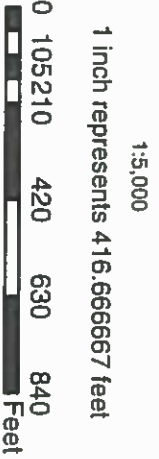
Legend

-  Roads
-  DRIVEWAYS
-  PARCELS

tabbler

EXHIBIT

4.



2015 Imagery
2 FOOT CONTOURS

This information is for reference only.
Santa Fe County assumes no liability for
errors associated with the use of these data.
User are solely responsible for
confirming data accuracy.

12



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

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.

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:

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:

(vi) 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.



1 ARTICLE III, SECTION 4.4.1 Submittals

2
3 b. A development plan shall be submitted for individual uses to be
4 permitted within the district, as follows:

5
6 6) A water harvesting plan to collect all roof drainage for use as
7 landscape irrigation shall be submitted.

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

14 b. The water harvesting plan shall be in accordance with the general
15 guidelines prepared by the Land Use Administrator.
16

17
18 PASSED, APPROVED, and ADOPTED this ___ day of _____, 2003, by
19 the Santa Fe County Board of County Commissioners.
20

21
22 _____
23 JACK SULLIVAN, CHAIRMAN
24

25
26 ATTEST: _____
27 REBECCA BUSTAMANTE
28 SANTA FE COUNTY CLERK
29

30
31 APPROVED AS TO FORM:
32

33
34 _____
35 COUNTY ATTORNEY
36

37
38 CERTIFICATE OF FILING
39

40 I, Rebecca Bustamante, County Clerk, do hereby certify that the foregoing
41 ordinance, designated as Ordinance No. 2003 - ___, was filed in my office on the
42 ___ day of ____, 2003, in book Number ___ at Page ____.

43
44 SANTA FE COUNTY CLERK
45
46 _____

SANTA FE NEW MEXICAN

Ad Proof / Order Confirmation / Invoice

Account Number

1184

Ad Order Number

0000163906

DESIGN ENGINUITY, LLC

LEGAL # 80880

CASE # V 16-5040
Homewise Inc,
NOTICE OF PUBLIC
HEARING

Notice is hereby given that a public hearing will be held to consider a request by Homewise Inc., Applicants, 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 lots within the Tessera 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 Tessera Subdivision is within the Tres Arroyos del Poniente Community District Overlay (TAPCD) and is zone as a Planned Development District (PD-4). The property is located via NM 599, within Section 20 & 17 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 Office 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 Office/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 275, 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.



17

CLARK, DONALD G & TANYA J
11 CALLE ALTURA
SANTA FE, NM 87507

HUDSON, JO F (TRUSTEE)
52 CENTAURUS RANCH RD
SANTA FE, NM 87507

THE COFFMAN REVOCABLE TRUST
7 CALLE ALTURA
SANTA FE, NM 87507

WOOD, WARREN T & MARIA EDWINA
(TRUSTEES)
112 SUNFLOWER DR
SANTA FE, NM 87506

HANN PARTNERS LTD
8 VIA ALTERA
SANTA FE, NM 87507

ZUCKERMAN, DAVID & DARLYNN
50 VIA SUMMA
SANTA FE, NM 87507

MENDEZ, PETE A & AMANDA M
36 VIA SUMMA
SANTA FE, NM 87507-8052

NORTHWEST VILLAGES LLC
PO BOX 2857
SANTA FE, NM 87504

BERMAN, RICHARD
3212 LA PAZ LN
SANTA FE, NM 87507

MELARA, ELIO & MAGALI CAMPOS
15 VIA NOVA
SANTA FE, NM 87507

ETRE, STEPHEN A & KATHERINE ARMIJO
64 CALLE SINSONTE
SANTA FE, NM 87507

TINDALL, TOM & OKYO PYON
9 CALLE ALTURA
SANTA FE, NM 87507

JAMES, NANCY OWEN (TRUST)
6404 N 29TH ST
PHOENIX, AZ 85016-8949

HOMEWISE, INC
1301 SILER RD BLDG D
SANTA FE, NM 87502

MARAVILLA, ERNEST & KATHLEEN
TAYLOR
15 VIA OPTIMA
SANTA FE, NM 87507

DOWELL, AUDRA
1 VIA OPTIMA
SANTA FE, NM 87507

POOLE, DEVERELL & JASON
51 CENTAURUS RANCH RD
SANTA FE, NM 87507-7912

KULIS, JERZY & VERONIQUE
4 CHOCOLATE FLOWER CIRCLE
SANTA FE, NM 87506

MANNING, MICHAEL C & AMY
PO BOX 4910
SANTA FE, NM 87502

COLLISON, EARL B & NATALIE G
38 VIA SUMMA
SANTA FE, NM 87507

DEUTSCH, RONALD E & NANCY
W(TRUSTEES)
48 CENTAURUS RANCH RD
SANTA FE, NM 87507

NORTHCUTT, KAY LYNN
55 CENTAURUS RANCH RD
SANTA FE, NM 87507

VON HUBEN, CHARLES W & NANCY A
63 AVENIDA FRIJoles
SANTA FE, NM 87507

OGAN, BANU & PEKIN & CHRISTINE
7 VIA OPTIMA
SANTA FE, NM 87507

MACDONALD, LAUREN HULL &
DOUGLAS R
10 VIA OPTIMA
SANTA FE, NM 87507

STEVENS, JULIA MAY
8 VIA NOVA
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61 VIA SUMMA
SANTA FE, NM 87507

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(TRUSTEES)
PO BOX 570
WATONGA, OK 73772

MONSOUR, MELANIE A
11 VIA NOVA
SANTA FE, NM 87507

COLE, THOMAS W & BETTY BARTOS
34 VIA SUMMA
SANTA FE, NM 87507

DOTY, RYDER C & LINNA PHUONG
3 VIA QUARTA
SANTA FE, NM 87507

MARTINEZ, RAYMOND J JR
2909 CALLE DE ORIENTE
SANTA FE, NM 87507

KING, LESLEY S
5 BLUE CANYON WAY
SANTA FE, NM 87501

HERINGHI, HAROLD LOUIS (TRUSTEE)
5 CHOCOLATE FLOWER CIRCLE
SANTA FE, NM 87506

FLIPPO, KIRK A & SANDRINE A
GAILLARD
12 VIA OPTIMA
SANTA FE, NM 87507-8053

JEVNE, DENISE
66 BLUE CANYON TRL
SANTA FE, NM 87501

HOLT, EVA P
3 VIA OPTIMA
SANTA FE, NM 87507

BAKER, SALLY A & ELEANOR M
11 VIA OPTIMA
SANTA FE, NM 87507

TABING, ROBERT E & DEBORAH K
MOCK
8 VIA OPTIMA
SANTA FE, NM 87507

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ALBUQUERQUE, NM 87199

HANSEN, DAVID & LAURA
5 VIA OPTIMA
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MULCAHY, MICHAEL P
75 B DOUBLE ARROW RD
SANTA FE, NM 87505

ORTIZ, PETER M & JANET L
13 VIA OPTIMA
SANTA FE, NM 87507

SCHWARZ, ROBERT J & KATHY ANNE
4254 CACTUS FLOWER LANE
SANTA FE, NM 87507

MONTANO, PHILIP L
6912 88TH PLACE NE
MARYSVILLE, WA 98270

BORDAN, CLAY & JULIE
63 VIA SUMMA
SANTA FE, NM 87507

HANSEN, CAROLYN (TRUSTEE)
98 CENTAURUS RANCH RD
SANTA FE, NM 87507

MASTERS, DONNIE L & PETER A
MEYBURGH
40 VIA SUMMA
SANTA FE, NM 87507

PYNE, DANIEL JOHN & JOAN CASHEL
2867 LA CASTANA DR
LOS ANGELES, CA 90046

SANCTUARY BEND HILL, LLC
130 W CORONADO RD
SANTA FE, NM 87505

JERRERIS, RICHARD H JR &
5397 LYNBROOK DRIVE
HOUSTON, TX 77056

WALSKY, PAUL E
900 NE 81ST AVE #403
PORTLAND, OR 97213

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PLATTSBURGH, NY 12901

BROOKS, JUDY GAYLE & BRENDA KAYE
4 VIA OPTIMA
SANTA FE, NM 87507

TENENBAUM, ARNOLD M & LORLEE S
300 BULL ST #702
SAVANNAH, GA 31400

MONTOYA II, ENRIQUE M & VICTORIA
M
42 VIA SUMMA
SANTA FE, NM 87507

SOHN, VIRGINIA ANN
6 VIA OPTIMA
SANTA FE, NM 87507

GREGORY, JAMES MITCHELL JR &
SHARON D
17 VIA OPTIMA
SANTA FE, NM 87507

DURAN, VICTOR ANTHONY & ETAL
381-41 COUNTY RD 84
SANTA FE, NM 87506

ROARK, KEVIN N & SUSAN B SPERRY
59 VIA SUMMA
SANTA FE, NM 87507

FLYS, TAMARA & MARIO IZAGUIRRE
SIERRA
16 VIA OPTIMA
SANTA FE, NM 87507

DURR, JOE E JR & ANNA MARIE A
15 BLUE CANYON WAY
SANTA FE, NM 87507

BOCEDI, ENRIQUE C & LILA P.
3 ARRIBA CIRCLE
SANTA FE, NM 87506

VALDEZ, ALBERT A & WAYMON
1038 STAGECOACH RD
SANTA FE, NM 87501

SANDOVAL, LOUIE D & VALERIE L
54 SOMBRILLO RD
ESPANOLA, NM 87532

LAMBERT, LINDA LOE TRUST
127 SUNFLOWER DR
SANTA FE, NM 87501

KUSHNIR, KENNETH & MARY
24902 MISTY HEATH LN
KATY, TX 77494

BARNES, MELANIE G
77 BLUE CANYON TRL
SANTA FE, NM 87507

KAYSEN, RICHARD L & DIANA J
52 VIA SUMMA
SANTA FE, NM 87507

VELAZQUEZ, JOSE L
20 SHRUB RD
SANTA FE, NM 87507

MARTINEZ, FRANK F & BILLIE MAE
67-A BLUE CANYON TRAIL
SANTA FE, NM 87507

ERIVES, CESAR & ROCIO C SAENZ
DOMINGUEZ
2 CALLE LAS CASAS
SANTA FE, NM 87507

HOUSE, JOHN L & LESLIE G (TRUSTEES)
4 ARRIBA CIR
SANTA FE, NM 87506

MILLER, AMY J & THOMAS E
30 SHRUB
SANTA FE, NM 87501

KADZIELSKI, MARK A (REVOCABLE
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14641 OTSEGO ST
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KRAAS, ROBERT A & IRENE W
108 SUNFLOWER DR
SANTA FE, NM 87506

CRYSTER, ROBERT BRUCE & KARYN SUE
65 VIA SUMMA
SANTA FE, NM 87507

RICHARDSON, CHRISTINE
217 W HOUGHTON ST
SANTA FE, NM 87505-8846

MULCAHY, MICHAEL P & ROSEMARY
75 B DOUBLE ARROW ROAD
SANTA FE, NM 87505

FLORES, MARY ELLEN & MARTIN M
1012 VALERIE CIRCLE
SANTA FE, NM 87505

LEVINSKY, JANN & VIVIAN CARTER
6181 RAINDANACE TRAIL
LITTLETON, CO 80125


DUNCAN, THOMAS J
PO BOX 2221
SANTA FE, NM 87504

MARTINEZ, ALYN CHARLES & THERESA
M PEREA
67 C BLUE CANYON TRL
SANTA FE, NM 87507

KAMMERER, R MICHAEL TRUSTEE OF
1655 WALNUT ST #301
BOULDER, CO 80302

CERTIFICATION OF POSTING

I herby certify that the public notice posting regarding a Site Development Plan Case # V16-5040 was posted for 15 days on the property beginning the 13th 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.

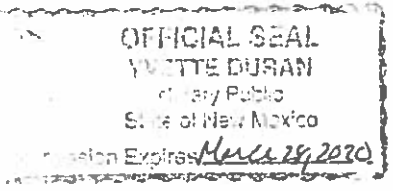
STATE OF NEW MEXICO }
 }
COUNTY OF SANTA FE }

The foregoing instrument was acknowledged before me this 13th day of April, 2016, By Charlie Gonzalez.



Notary Public

My Commission Expires:
March 28, 2020



CASE NO. V 16-5040
Tessera Subdivision
Homewise, Inc., Applicants

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 Homewise, Inc. (Applicants) for a Variance of Chapter 7, Section 7.13.11.7, Water Harvesting, of Ordinance 2015-11, of the SLDC to Allow the Remaining 34 Lots Within the Tessera 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 Tessera Subdivision is within the Tres Arroyos Del Poniente Community District Overlay (TAPCD) and is zoned as a Planned Development District (PD-4). The property is located via NM 599, within Section 20 & 17 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 34 Lots Within the Tessera 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,

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

2. The property is located via NM 599, within Section 20 & 17 Township 17 North, Range 9 East.

3. The Tessera Subdivision is within the Tres Arroyos Del Poniente Community District Overlay (TAPCD) and is zoned as a Planned Development District (PD-4). The property is located via NM 599, within Section 20 & 17 Township 17 North, Range 9 East (Commission District 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

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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.

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

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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.

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 and 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 subdivision is heavily vegetated so that imported landscaping is usually minimal, resulting in less water needed for landscaping that can be served by cisterns.

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

15. 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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16. 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 pursuant to Chapter 17, Section 7.13.11.7, Water Harvesting of Ordinance 2015-11, of the SLDC to Allow the Remaining 34 Lots Within the Tessera Subdivision to Adhere to Prior County Water Harvesting Requirements Which Were Set Forth in Ordinance 2003-6 (Rainwater Catchment Systems).

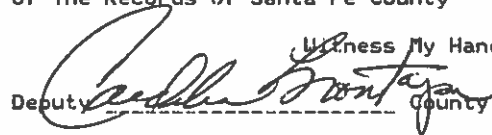
IT IS SO ORDERED.


Nancy R. Long
Hearing Officer

Date: 5-13-16

COUNTY OF SANTA FE) OATH (NC)
STATE OF NEW MEXICO) ss PAGES: 5

I Hereby Certify That This Instrument Was Filed for Record On The 23RD Day Of May, 2016 at 09:15:36 AM And Was Duly Recorded as Instrument # 1794107 Of The Records Of Santa Fe County


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



SFC CLERK RECORDED 05/23/2016