

Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

CASE NO. V 17-5170

Los Suenos Trail Extension, Inc. and The Catholic Foundation, Applicants

ORDER

THIS MATTER came before the Santa Fe County Planning Commission (Commission) for hearing on September 21, 2017, on the Application of Los Suenos Trail Extension, Inc. and The Catholic Foundation, Applicants, Jenkins Gavin, Inc., Agent, to request a variance of Chapter 7, Section 7.11 Road Design Standards, Table 7-13 Rural Road Classification and Design Standards (SDA-2 and SDA-3) to permit the construction of the Hager Road/Los Suenos Trail Extension from Collector road standards to Local road standards. The 14 lots, referred to as the Hager Lands, are accessed via County Road 70 (West Alameda St.) within Sections 30 & 31, Township 17 North, Range 9 East (Commission District 2).

The Planning Commission, having reviewed the application, staff reports, the Hearing Officer's recommended decision, and having conducted a public hearing on the application, finds that the application is well-taken and should be approved and makes the following findings of fact and conclusion of law:

1. The Applicant appeared before the Sustainable Land Development Code Hearing Officer (Hearing Officer) on July 27, 2017.
2. The Hearing Officer Recommended approval of a Variance of Chapter 7, Table 7-13: Rural Road Classification and Design Standards (SDA-2 AND

SDA-3) to permit the construction of the Hager Road/Los Suenos Trail Extension from Collector road standards to Local road standards.

3. Prior to the hearing before the Commission, notice requirements of the SLDC were met pursuant to Chapter 4, Section 4.6.3., General Notice of Application Requiring a Public Hearing. In advance of the hearing on the application, the Applicant 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 July 12, 2017. Additionally, notice of the hearing was published in the legal notice section of the Santa Fe New Mexican on July 12, 2017, 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 in contained in the record.
4. At the public hearing before the Commission, staff recommended that the Commission deny the Applicant's Variance request.
5. The Commission finds that the proposed road can terminate in a cul-de-sac since currently the average daily traffic, based on the vacant lots, does not exceed 300 trips per day nor does it merit secondary access to Los Suenos Trail.
6. Chapter 7, Section 7.11.7 Cul-de-sacs (dead end roads), allows a road to terminate in a cul-de-sac when the road is not serving more than thirty dwelling units. The Commission finds per the testimony presented at the Hearing that there are no dwelling units on any of the properties accessing the proposed road.

7. There are currently 14 undeveloped lots that would access the proposed road which the Applicant testified would create an estimated 250 trips per day as stated in the Traffic Impact Analysis prepared by Santa Fe Engineering Consultants. Table 7-13 Local Road standards allow for up to 400 trips of average daily traffic.
8. Dave Munger, Judy Ross, Susan McMurray, Ann Noble, Keri-Lynn McBride, and Daniel Edgerton all spoke in favor of the Application.
9. Per Table 7-13, Hager Road/Los Suenos Trail shall be upgraded to Collector Road standards and extended to the Los Suenos Trail/La Vida Trail intersection when the average daily traffic exceeds 400 trips per day.
10. The Commission hereby adopts the Hearing Officer's Recommended Decision and Order (Recommended Decision and Order) attached hereto as Exhibit A, except for condition #3 and all other provisions set forth in the Recommended Decision and Order are incorporated by reference as though fully set forth herein; and
11. The requested variance of Chapter 7, Section 7.11 Road Design Standards, Table 7-13 Rural Road Classification and Design Standards (SDA-2 and SDA-3) to permit the construction of the Hager Road/Los Suenos Trail Extension from Collector road standards to Local road standards terminating in a cul-de-sac are approved with the following conditions:
 - a. Right of way shall be 80' and platted through all properties which the Hager Road/Los Suenos Trail extension accesses.

- b. The proposed design for the all-weather crossings shall be submitted with the permit application for the road improvements or at the time of subdivision application, whichever occurs first. All-weather crossings shall be designed and constructed to Collector Road standards.
- c. The Hager Road/ Los Suenos Trail extension shall be constructed to Local Road standards per Table 7-13 while the average daily traffic is less than 400 trips per day.
- d. At the time that the Average Daily Traffic volume exceeds 400 trips per day on Los Suenos Trail Extension, the road shall be upgraded to Collector Road standards and the Hager Road/Los Suenso Trail extension shall be extended to the Los Suenos Trail/La Vida Trail intersection.
- e. The property owners along Los Suenos Trail Extension shall enter into a Development Agreement for full build-out of Hager Road to Collector Road standards including the two all-weather crossings.

IT IS SO ORDERED.

This Order was adopted by the Commission on this ____ day of _____, 2017.

THE SANTA FE COUNTY PLANNING COMMISSION

Filandro Anaya, Chairperson

ATTEST:

Geraldine Salazar, County Clerk

APPROVED AS TO FORM:

Rachel Brown

Rachel Brown, Interim County Attorney

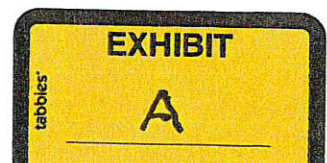
CASE NO. V 17-5170
Los Suenos Trail Extension Inc. and
The Catholic Foundation, Applicant

RECOMMENDED DECISION AND ORDER

THIS MATTER came before the Sustainable Land Development Code (SLDC) Hearing Officer for hearing on July 27, 2017, on the application of Los Suenos Trail Extension, Inc. and The Catholic Foundation (collectively, the Applicant) for a variance from Chapter 7.11 Road Design Standards, Table 7-13 Rural Road Classification and Design Standards (SDA-2 and SDA-3) of the Sustainable Land Development Code (SLDC), as amended, to permit the construction of the Hager Road/Los Suenos Trail Extension from Collector road standards to Local road standards. Fourteen lots are currently accessed via County Road 70 (West Alameda St.) within Sections 30 and 31, 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, finds that the application is well-taken and recommends that it should be granted, subject to conditions, and makes the following findings of fact and conclusions of law:

1. On June 2, 2017, the Applicant submitted an application for a variance from Chapter 7.11 Road Design Standards, Table 7-13 Rural Road Classification and Design Standards (SDA-2 and SDA-3) of the Sustainable Land Development Code, as amended, to permit the construction of the Hager Road/Los Suenos Trail Extension from Collector road standards to Local road standards.
2. Fourteen lots, referred to as the Hager Lands, are currently accessed via County Road 70 (West Alameda St.) within Sections 30 and 31, Township 17 North, Range 9 East (Commission District 2).

NBF-57



3. Independent of any proposal to develop the Hager Lands, the Applicant is requesting a variance of Chapter 7.11, Road Design Standards, Table 7-13 Rural Road Classification and Design Standards (SDA-2 and SDA-3) for the road to serve the 14 lots.

4. Within the SLDC Official Map Series Future Road Network, the Hager Road/Los Suenos Trail extension is designated as a Minor Collector-Rural road. Table 7-13 requires a Collector road for roadways with an average daily traffic of 401-1999 vehicles per day and requires two 11-foot driving lanes with a minimum right-of-way width of 80 feet.

5. Applicant's Average Daily Traffic (ADT) report estimates 250 vehicles per day despite the fact that the fourteen lots are not yet developed. The trip count assumed that each lot would contain no more than one dwelling unit and therefore only a Local Road is needed. A Local Road consists of two 10-foot driving lanes with a minimum right-of-way width of 50 feet.

6. Applicant proposed the construction of a Local Road including a dead end to the road with a cul-de-sac, pursuant to Table 7-13.

7. The Applicant and Staff have addressed the variance criteria as follows:

a. *Where the request is not contrary to the public interest.*

i. Applicant states the variance is in the public interest by preventing access to the Hager Lands via existing public roadways in Puesta del Sol and the associated traffic impacts. Furthermore, the proposed Local Road can be considered the initial phase of construction for a possible future collector serving Las Campanas.

ii. Staff reviewed the application for potential dwelling units rather than potential lots and concluded that through land divisions or development permits or a combination of both, the Hager Lands have a potential for approximately 147 dwelling units. Based on standard engineering calculations of about 10 daily trips per dwelling unit, approximately 1470

trips would be generated, which merits a Collector Road. Chapter 7, Section 7.11.7.1. also states "Cul-de-sacs (dead end roads) shall not serve more than thirty (30) dwelling units." Therefore, the cul-de-sac would not be acceptable due to a potential of far more than 30 units accessed through this cul-de-sac.

b. *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.*

i. Applicant stated that requiring the construction of a Collector to provide an additional point of access to Las Campanas is an undue hardship on the Hager landowners and is practically and financially infeasible. The expiration of the Suerte del Sur project has created an exceptional situation, eliminating two-thirds of the Hager Road funding.

ii. Staff responded that the Hager landowners still have the potential to develop up to 147 dwelling units.

c. *So that the spirit of the SLDC is observed and substantial justice is done.*

i. Applicant stated that in the near term, there is only a potential ADT of 250 vehicles per day. A Local road is consistent with the rural character of the area and protects existing neighborhoods from potential traffic impacts.

ii. Staff responded that the Road Design Standards have been created to provide for the safety of vehicular traffic while providing safe and efficient access to the properties.

8. Chapter 4, Section 4.9.7.1, 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 and standards of the Code, but in no way shall it authorize a use of land that is otherwise prohibited in the relevant zoning district.

9. Chapter 4, Section 4.9.7.4, Variances, 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) based upon the following criteria:

1. where the request is not contrary to the public interest;
2. 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; and
3. so that the spirit of the SLDC is observed and substantial justice is done.

10. Chapter 4, Section 4.9.7.5 Variances, 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 files a plat implementing the variance or substantial construction of the building or structure authorized by the variance occurs within that time.

11. As required by the SLDC, the Applicant presented the application to the Technical Advisory Committee (TAC) on May 4, 2017, at the regular scheduled monthly meeting, as required by Chapter 4, Section 4.4.4.3 Pre-application TAC Meeting and Table 4-1.

12. Notice requirements of the SLDC were met as per Chapter 4, Section 4.6.3., General Notice of Application Requiring a Public Hearing. 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 July 12, 2017. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on July 12, 2017, 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.

14. At the public hearing, two letters concerning the variance request were presented and are contained in the record: a letter supporting the variance request from the Puesta del Sol Property Owners Association and a letter opposing the variance request from the West Santa Fe Association.

15. At the public hearing, three individuals spoke against the application citing serial subdivision concerns, the concern over no fire break-away gate serving the Puesta del Sol subdivision and regarding the traffic that will be created by a new road. Two individuals spoke in favor of the variance request. They both live in Puesta del Sol and expressed wholehearted support for the variance request as an interim approach so that the public roads in their subdivision are not used to access the Hager Lands.

16. At the public hearing, the Applicant presented proposed Modified Conditions of Approval, some of which the staff agreed with and some of which they opposed. The proposed Modified Conditions of Approval (Applicant's Conditions) are attached hereto as Exhibit 1.

17. The Hearing Officer finds that there are extraordinary and exceptional situations or conditions of the property as demonstrated by the applicant, described above.

18. The variance requested:

- a. Is not contrary to public interest;
- b. Owing to extraordinary and exceptional conditions of the property, the strict application of the Code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship to the owner; and,

- c. Granting the variance will result in the spirit of the SLDC being observed and substantial justice done.

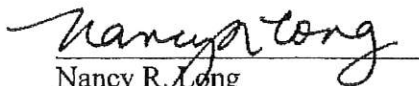
WHEREFORE, the Hearing Officer hereby recommends approval of the application of Los Suenos Trail Extension, Inc, and the Catholic Foundation for a variance from Chapter 7.11 Road Design Standards, Table 7-13 Rural Road Classification and Design Standards (SDA-2 and SDA-3) of the Sustainable Land Development Code, as amended, to permit the construction of the Hager Road/Los Suenos Trail Extension from Collector road standards to Local road standards, subject to the following conditions:

1. Right of way width shall be 80' and platted through all properties which the Hager Road/Los Suenos Trail extension accesses. [Comment: Staff will review the existing Trail Agreement to determine if the Applicant's Condition #1 is acceptable.]
2. The proposed design for the all-weather crossings shall be submitted with the permit application for the road improvements or at the time of subdivision application, whichever occurs first. All-weather crossings shall be designed and constructed to Collector Road standards. [Comment: Applicant's requested deletion of the last sentence of this condition requiring construction of all-weather crossings is rejected.]
3. Los Suenos Trail Extension shall be constructed from County Road 70 to the Los Suenos Trail/La Vida Trail intersection. [Comment: Applicant's Condition #3 is rejected.]
4. At the time that the Average Daily Traffic volume exceeds 400 trips per day on Los Suenos Trail Extension, the road shall be upgraded to Collector Road standards. [Comment: Applicant's Condition #4 is rejected.]

5. The property owners along Los Suenos Trail Extension shall enter into a Development Agreement for full build-out of Hager Road to Collector Road standards including the two all-weather crossings. [Although Applicant requested the deletion of this condition, the Applicant agreed to explore the possibility of entering into such an agreement at the hearing.]

6. The Applicant shall conduct a community meeting prior to the September 21, 2017 Planning Commission meeting and provide Staff with minutes and documentation from the meeting. [Comment: The Applicant agreed to this condition.]

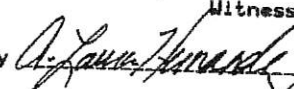
Respectfully submitted,


Nancy R. Long
Hearing Officer

Date: 8-15-17

COUNTY OF SANTA FE) SLDC HEARING OFFICER O
STATE OF NEW MEXICO) ss PAGES: 8

I Hereby Certify That This Instrument Was Filed for
Record On The 16TH Day Of August, 2017 at 10:08:51 AM
And Was Duly Recorded as Instrument # 1833808
Of The Records Of Santa Fe County

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





JENKINS GAVIN
LAND USE | PROJECT MANAGEMENT

Hager Road/Los Sueños Trail Extension Variance (Case #V 17-5170)

Proposed Modified Conditions of Approval

1. ~~Right of way width shall be 80' and platted through all properties in which the Hager Road/Los Sueños Trail extension accesses.~~
Right of way width shall be 81' and platted through Lots 2, 3, 5, and 7 of the Hager Lands, which is comprised of the existing 66-foot Road and Utility Easement and a future 15-foot non-contiguous trail easement per the 2006 Trail Agreement among the lot owners.
2. The proposed design for the all-weather crossings shall be submitted with the permit application for the road improvements or at the time of subdivision application, whichever occurs first. ~~All weather crossings shall be designed and constructed to Collector Road standards.~~
3. Los Sueños Trail Extension shall be ~~constructed from County Road 70 to the Los Sueños Trail/La Vida Trail intersection.~~ *constructed to the La Vida Trail intersection at such time that the number of lots among the Hager Properties served by the Los Sueños Trail Extension exceeds 30.*
4. At the time that the ~~Average Daily Traffic volume exceeds 400 trips per day on Los Sueños Trail Extension serves more than 40 lots among the Hager Properties,~~ the road shall be upgraded to Collector Road standards *as development occurs.*
5. ~~The property owners along Los Sueños Trail Extension shall enter into a Development Agreement for full build-out of Hager Road to Collector Road standards including the two all-weather crossings.~~
6. The Applicant shall conduct a community meeting prior to the September 21, 2017 Planning Commission meeting and provide Staff with minutes and documentation from the meeting.