

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

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




**Anna T. Hamilton**  
Commissioner, District 4



**Ed Moreno**  
Commissioner, District 5

**Katherine Miller**  
County Manager

**DATE:** December 21, 2017

**TO:** Santa Fe County Planning Commission

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

**VIA:** Penny Ellis-Green, Growth Management Director   
Vicki Lucero, Building and Development Services Manager 

**FILE REF.:** CASE # V17-5520 Oreo, LLC Variance

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**ISSUE:**

Oreo, LLC., Applicant, Design Enginuity (Oralynn Guerrerortiz) Agent, request a variance to the requirements set forth in the Sustainable Land Development Code (SLDC) of Chapter 7, Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow a 250 ft. section of South Summit Drive to exceed 9% grade and a variance of Chapter 7, Section 7.17.10.7.8 Screening Requirements to allow existing 14 ft. retaining walls to exceed the (5) ft. height limitation.

The property is located within the Residential Community District (RES-C) at South Summit Drive, within Section 16, Township 17 North, Range 10 East, (Commission District 4).

**Vicinity Map:**



NBA-1

## **SUMMARY:**

On October 26, 2017 the Application was presented to the Hearing Officer. 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 allow a 250 foot section of South Summit Drive to exceed 9% grade and a variance of Chapter 7, Section 7.17.10.7.8, Screening Requirements, to allow the existing 14 foot retaining walls to exceed the 5 foot height limitation, subject to the following condition: an engineer will certify the structural integrity of the retaining walls and ensure that the retaining walls are properly permitted.

The Applicant, Oreo, LLC is the owner of property at High Summit III Phase 2 as indicated by the warranty deed recorded in the records of the Santa Fe County Clerk on March 23, 2017, as Instrument No. 1821217.

The Applicant, Oreo, LLC intends to complete infrastructure for High Summit III Phase 2. In order for the Applicant to complete this project, the Applicant is requesting a variance to the requirements set forth in the Sustainable Land Development Code (SLDC) of Chapter 7, Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow a 250 foot section of South Summit Drive to exceed 9% grade and a variance of Chapter 7, Section 7.17.10.7.8 Screening Requirements to allow the existing, unpermitted 14 ft. retaining walls to exceed the current 5 ft. height limitation.

The property at High Summit III Phase 2, consist of 22 lots as indicated in Plat Bk 812 Pg. 4-6 located within the Residential Community Zoning District (RES-C). The property is accessed off South Summit Drive, which is identified as a private road and maintained through the High Summit Home Owners Association.

### **History of the Subdivision:**

On December 4, 2003, the Extraterritorial Zoning Authority (EZA) granted Master Plan approval for a residential subdivision consisting of 105 lots with 107 dwelling units on 150 acres, and a single tract (Tract "K") consisting of 342.3 acres (MSRD). The project was to be completed in 9 phases which included lot line adjustments with the previously approved adjacent subdivisions. The EZA approval also included the following variances of the Extraterritorial Zoning Ordinance: To allow disturbance of slopes of 30% or greater for road, driveway, and building construction and to allow more than 50% of structures to be on slopes of 20% to 30%.

On December 9, 2003, the Board of County Commissioners (BCC) granted Master Plan, Preliminary and Final Plat and Development Plan approval for the High Summit III residential subdivision. The BCC approval included variances of the Extraterritorial Subdivision Regulations to allow two cul-de-sacs with lengths greater than 1,000 feet and to allow the replacement of standard curb and gutter with stone.

The first phase of High Summit III, which consisted of 30 lots, was recorded in 2005. The roads for Phase II were rough graded and the water, sewer, and dry utility mains, and service lines for Phase II were installed to loop the system.

NBA-2

In 2008, the City and County entered into a settlement agreement for the phased annexation of lands within the urban area. With the acceptance of the settlement agreement, the City assumed jurisdiction over the land use review and permitting for Area 18, which included the High Summit development. During the time that this was under the City's jurisdiction, the City granted 2 one-year time extensions of the Master Plan and Final Plat on the subdivision, which was set to expire in December of 2014. The City and County later amended the settlement agreement in January 2014. Area 18 was removed from the City's future annexations and is now under County Jurisdiction.

On September 9, 2014, the BCC granted a two-year time extension on the expiration date for Phases 2-5 of High Summit III. The extension, was set to expire in December in 2016. The Applicants recorded Phase II (22 lots) on December 29, 2016 (Bk 812 Pg. 4-6).

On December 13, 2016 the BCC granted Conceptual Plan approval to modify the previously approved High Summit III phased residential subdivision to reduce the amount of lots from 55 lots to 12 lots with no more than 20 dwelling units. The BCC also approved the Application for Preliminary Plat approval for Phases 3, 4, 5 and 6 (consisting of 12 lots on 87.34 acres), and Final Plat approval for Phase 3 (consisting of 3 lots on 15.96 acres).

#### **Applicant's Statement**

The Applicant states High Summit III Phase 2 was approved by the BCC in 2003 and the road was rough graded, culverts were installed and all of the wet and dry utilities were installed around 2005-2009. The developer defaulted and the project lingered for years in the bankruptcy court system. In early 2017, Oreo LLC purchased the property and intends to complete the project infrastructure.

The Applicant's agent states an improvement survey and topographic mapping were prepared to determine current conditions. We found that the rough graded road was very steep in one section exceeding 18%. If we modified the road grade to the original planned grade of 11.9% it would be a major reconstruction project requiring existing utility lines to be removed and reinstalled, otherwise the utilities would be at the depth of as much as 11 ft. which is unacceptable to the utility companies.

We consulted with the County Fire Marshal and he was amenable to allowing grades up to 15% for a 250 feet length because we have paved roads, fire hydrants tied to the City water system and all homes in the High Summit project are required to have fire suppression systems. The existing roadway into the project, South Summit Drive, has existing grades of up to 15% as at the time of project development the EZ Code allowed these steeper grades. We are requesting a variance of the SLDC Chapter 7 Table 7-13 associated to Local Roads standards to permit a small section of road, 250 feet long, with a road grade of 15%. All other grades will be less than 11.9% per the original approved plans.

The Applicant's agent further states the previous developer installed natural rock retaining walls along the roadway that extend as high as 14 ft. These walls greatly limited the area of disturbance and reduced the amount of trees removed. The walls are not visible from offsite roads and are difficult to see when driving through the project because trees screen the wall. To meet current code requirements of walls no greater than 5 ft. in height, extensive grading would have to occur, a significant amount of large trees would have to be removed and extensive disturbance of 25% and greater slopes would be disturbed. The current owner would like to leave these retaining walls in

place and is requesting a variance to keep them. All future retaining walls will meet current code requirements.

**Staff Response:**

South Summit Drive (High Summit III Phase 2) is required to meet Santa Fe County Road Standards for local roads which would require 2-driving lanes, a max grade of 9%, 3 inches of base course, and 8% Super elevation as stated in Chapter 7, Table 7-13 Rural Road Classification and Design Standards (SDA-2 and SDA-3). Staff conducted a site visit and has confirmed that there are two existing unpermitted retaining walls approximately 14 ft. in height. As per the Extraterritorial Zoning Ordinance (EZO), the retaining walls shall not exceed 8 ft. in height. However, Chapter 7, Section 7.17.10.7.8, Screening Requirements of the SLDC states: No retaining walls shall be greater than five feet (5') in height.

Staff has also confirmed that the existing ROW easement is 38 ft. as indicated on Plat book 812 page 4-6.

The applicable requirements under the Santa Fe County Sustainable Land Development Code, Ordinance No. 2016-9 (SLDC), which governs this Application are the following:

**Chapter 8, Section 8.6.7. Residential Community (RES-C) Purpose:**

The purpose of the Residential Community (RES-C) zoning district is to designate areas suitable for suburban-type residential development and other compatible uses. The RES-C district supports single-family homes on relatively small lots consistent with contemporary community development. Generally this district applies to existing medium to higher density residential development in established neighborhoods (lands that are already committed to residential uses and have been subdivided for a specific development) and undeveloped or underdeveloped areas with a moderate to high development suitability. Density transfers and clustered development shall be allowed in order to support continued farming and/or ranching activities, conserve open space or protect scenic features and environmentally sensitive areas.

**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.

Chapter 7, Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3). Local Roads, (Exhibit 4).

NBA-4

Chapter 7, Section 7.17.10.7.8, Screening Requirements states:

No retaining walls shall be greater than five feet (5') in height. When retainage greater than five feet (5') is required, multiple retaining walls shall be used, which must be set back a minimum of six horizontal feet (6') from face of wall to face of wall. Setback area grading shall not exceed a one percent (1%) cross slope and all walls shall be screened in accordance with Section 7.17.10.7 above.

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

1. Where the request is not contrary to 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.

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

The Applicant has addressed the variance criteria as follows:

**Road Grade**

1. Where the request is not contrary to the public interest;

**Applicant's Statement:** The request is not contrary to public interest and will have less impact to slopes and existing vegetative screening which benefits the public.

**Staff Response:** Staff has confirmed that existing roads are within the subdivisions that are approximately at 15% grade. High Summit III Phase 2 is well screened by native vegetation. The previous code (EZO) allowed road grades up to 15% in mountainous areas.

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 and undue hardship to the owner;

**Applicant's Statement:** 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 because the owner would be required to rip out and reinstall utility lines, truck in substantial amount of dirt and go to great expenses to lower the grade below road grades present in other parts of the High Summit development.

**Staff Response:** In 2005, the roads for High Summit III Phase 2 were rough graded. Water, sewer, dry utility mains and service lines were installed to loop the system for Phase 2 (permit # 05-1316.) The utilities were installed to meet the road grade and ROW width at the time. If the applicant was required to rip out previously installed utility lines, which are currently being used by the subdivision, the applicant would be put through a great expense, which would cause undue hardship by having to add large amounts of fill and having to relocate the utility lines and disrupt service to existing lots.

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

**Applicant's Statement:** The spirit of the SLDC is observed and substantial justice is done, as this is a minimal easing of the standards and does not increase the intensity of use and matches other road grades in the project.

**Staff Response:** Staff has confirmed that there are existing roads within the subdivision that are at grades of up to 15%. The previous code (EZO) allowed road grades of 15% in mountainous areas. South Summit Drive was previously approved to have road grades of more than 11%. Therefore, staff confirms that allowing previously approved grades of up to 15% would be a minimal easing of the SLDC and would not increase the intensity of use. South Summit Drive is a loop road, which is connected. However, there is a portion of South Summit Drive that is unfinished. With the proposed improvements, the loop will be connected and access to surrounding properties will be available from either side of the loop. The existing portion complies with previous approvals and meets current SLDC standards of Table 7-13 Rural Road Classification and Design Standards.

The Applicant has addressed the variance criteria as follows:

**Retaining Wall Height**

1. Where the request is not contrary to the public interest;

**Applicant's Statement:** The request is not contrary to public interest as leaving the existing walls in place will have less impact to slopes and existing vegetative screening which benefits the public.

**Staff Response:** On the project site there are two 14 ft. retaining walls as indicated on the Plan and Profile (Exhibit 7). Staff has confirmed that leaving the existing retaining walls would have less impact to the terrain, less impact to existing vegetation and would minimize grading and fill to the terrain. The applicants engineer has stated that if the variance is approved to keep the retaining walls, the engineer would certify the retaining walls' structural integrity and ensure that the retaining walls were properly permitted. Chapter 7, Section 7.17.10.7.8 indicates that no retaining walls shall be greater than five feet 5 ft. in height. Staff has conducted a site visit and has determined that the existing 14 ft. retaining walls would be difficult to see from any roadway. The retaining walls are currently screened by existing vegetation to include large trees and shrubs. If the applicant were to modify these 14 ft. retaining walls to the current SLDC requirements of 5 ft., extensive grading and disturbance of slopes would have to occur, and a significant amount of vegetation including large trees and shrubs would have to be removed.

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 and undue hardship to the owner;

**Applicant's Statement:** 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 and undue hardship to the owner because the owner would be required to rip out an extensive amount of trees and grade a steep slope to install smaller retaining walls in essence bury the existing wall. The existing wall would not be removed, but a great more site disturbance would occur.

**Staff Response:** Existing large trees, shrubs and other existing vegetation, currently screen the retaining walls. If the Applicant were to modify these 14 ft. retaining walls to the current SLDC requirements of 5 ft., extensive grading and disturbance of slopes would have to occur, and a significant amount of vegetation including large trees and shrubs would have to be removed.

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

**Applicant's Statement:** The spirit of the SLDC is observed and substantial justice is done, as this is a minimal easing of the standards and the walls allowed the previous developer to leave more of the site in a natural condition and the walls are invisible to all except those living within this phase of the project and does not increase the intensity of use and matches other road grades in the project.

**Staff Response:** The existing retaining walls are difficult to see from any other roadway with the exception of possibly anyone living within the phase of the

project. Reducing the retaining wall height would require major disturbance to the surrounding terrain.

As required by the SLDC, the Applicant presented the Application to the Technical Advisory Committee (TAC) on July 7, 2017, at the regularly scheduled monthly meeting, which satisfied the requirements set forth in Chapter 4, Section 4.4.4.3, Pre-application TAC Meeting.

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 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 October 11, 2017. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on October 11, 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.

This Application was submitted on July 28, 2017.

#### **RECOMMENDATION:**

**The applicant did provide responses to the variance review criteria. Staff recommends approval of a variance from Ordinance No. 2016-9 the Sustainable Land Development Code (SLDC) Chapter 7, Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow a 250 ft. section of South Summit Drive to exceed 9% grade. If the applicant were required to rip out previously installed utility lines, which are currently being used by the subdivision, the applicant would be put through undue hardship by having to add large amounts of fill and having to relocate the utility lines and disrupt service to existing lots.**

**Existing large trees, shrubs and other existing vegetation, currently screen the retaining walls. If the Applicant were to modify these 14 ft. retaining walls to the current SLDC requirements of 5 ft., extensive grading and disturbance of slopes would have to occur, and a significant amount of vegetation including large trees and shrubs would have to be removed. The existing retaining walls are difficult to see from any other roadway with the exception of possibly anyone living within the phase of the project. Reducing the retaining wall height would require major disturbance to the surrounding terrain. Accordingly, staff recommends approval of a variance of Chapter 7 Section 7.17.10.7.8 Screening Requirements to allow existing 14 ft. retaining walls to exceed the 5 ft. height limitation subject to the condition recommended by staff.**

- 1. An engineer will certify the structural integrity of the retaining walls and ensure that the retaining walls are properly permitted.**

**This matter went before the Hearing Officer for a hearing on October 26, 2017. 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 allow a 250 foot section of South Summit Drive to exceed 9% grade and a variance of Chapter 7, Section 7.17.10.7.8 Screening Requirements to allow the existing 14 foot retaining walls to exceed the 5 foot height limitation, subject to the following condition:**

102 Grant Avenue · P.O. Box 276 · Santa Fe, New Mexico 87504-0276 · 505-986-6200 · FAX:  
505-995-2740 [www.santafecountynm.gov](http://www.santafecountynm.gov)

NBA-8

1. An engineer will certify the structural integrity of the retaining walls and ensure that the retaining walls are properly permitted.

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:**

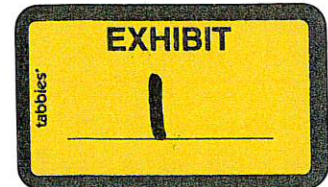
1. Applicants Request
2. Recorded Survey Plat
3. Aerial of Site and Surrounding Area
4. Chapter 7, Table 7-13 Rural Road Classification and Design Standards (SDA-2 & SDA-3)
5. Chapter 7, Section 7.17.10.7.8 Screening Requirements
6. Noticing
7. Plan and Profile
8. Hearing Officer Final Order/Meeting Minutes

NBA-9

# 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](mailto:oralynn@designengineuity.biz)



October 4, 2017, 2017

Santa Fe County  
Hearing Officer and Planning Commissioners

RE: High Summit III – Phase 2 Variance Request

Dear Hearing Officer and Commissioners,

On behalf of our client, Orea LLC, we submit the attached application requesting two variance and a road width modification. High Summit III – Phase 2 was approved by the BCC in 2003 and the road was rough graded, culverts were installed and all of the wet and dry utilities were installed around 2005-2009. The developer defaulted and the project linger for years in the bankruptcy court system. In early 2017, Orea LLC purchased the property and intends to complete the project infrastructure.

## Road Grade Variance Request

An improvement survey and topographic mapping were prepared to determine current conditions. We found that the rough graded road was very steep in one section, exceeding 18%. If we modified the road grade to the original planned grade of 11.9% it would be a major reconstruction project requiring existing utility lines to be removed and reinstalled, otherwise the utilities would be at a depth of as much as 11 feet which is unacceptable to the utility companies. We consulted with the County Fire Marshal and he was amenable to allowing grades up to 15% for a 250 feet length because we have paved roads, fire hydrants tied to the City water system and all homes in the High Summit project are required to have fire suppression system. The existing roadway into the project, South Summit Drive, has existing road grades of up to 15% as at the time of project development the EZ Code allowed these steeper grades. We are requesting a variance of SLDC 7.11.2 and associated Table 7-13 Rural Road standards to permit a small section of road, 250 feet long, with a road grade of 15%. All other grades will be less than 11.9% per the original approved plans.

## Review Criteria:

1. The request is not contrary to public interest and will have less impact to slopes and existing vegetative screening which benefits the public.
2. 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 because the owner would be required to rip out and reinstall utility lines, truck in substantial amount

NBA-10

of dirt and go to great expense to lower the grade below road grades present in other parts of the High Summit development.

3. The spirit of the SLDC is observed and substantial justice is done, as this is a minimal easing of the standards and does not increase the intensity of use and matches other road grades in the project.

#### **Retaining Wall Height Variance Request**

The previous developer installed natural rock retaining walls along the roadway that extend as high as 14'. These walls greatly limited the area of disturbance and reduced the amount of trees removed. The walls are not visible from offsite, and are difficult to see when driving through the project because trees screen the wall. To meet current code requirements of walls no greater than 5 feet in height (SLDC 7.17.10.7), extensive grading would have to occur, a significant amount of large trees would have to be removed and extensive disturbances of 25% and greater slopes would be disturbed. The current owner would like to leave these retaining walls in place and is requesting a variance to keep them. All future retaining walls will meet current code.

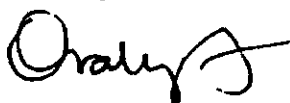
#### **Review Criteria:**

1. The request is not contrary to public interest as leaving the existing walls in place will have less impact to slopes and existing vegetative screening which benefits the public.
2. 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 because the owner would be required to rip out extensive amount of trees and grade a steep slope to install smaller retaining walls to in essence bury the existing wall. The existing wall would not be removed, but a great more site disturbance would occur.
3. The spirit of the SLDC is observed and substantial justice is done, as this is a minimal easing of the standards and the walls allowed the previous developer to leave more of the site in a natural condition and the walls are invisible to all except those living within this phase of the project.

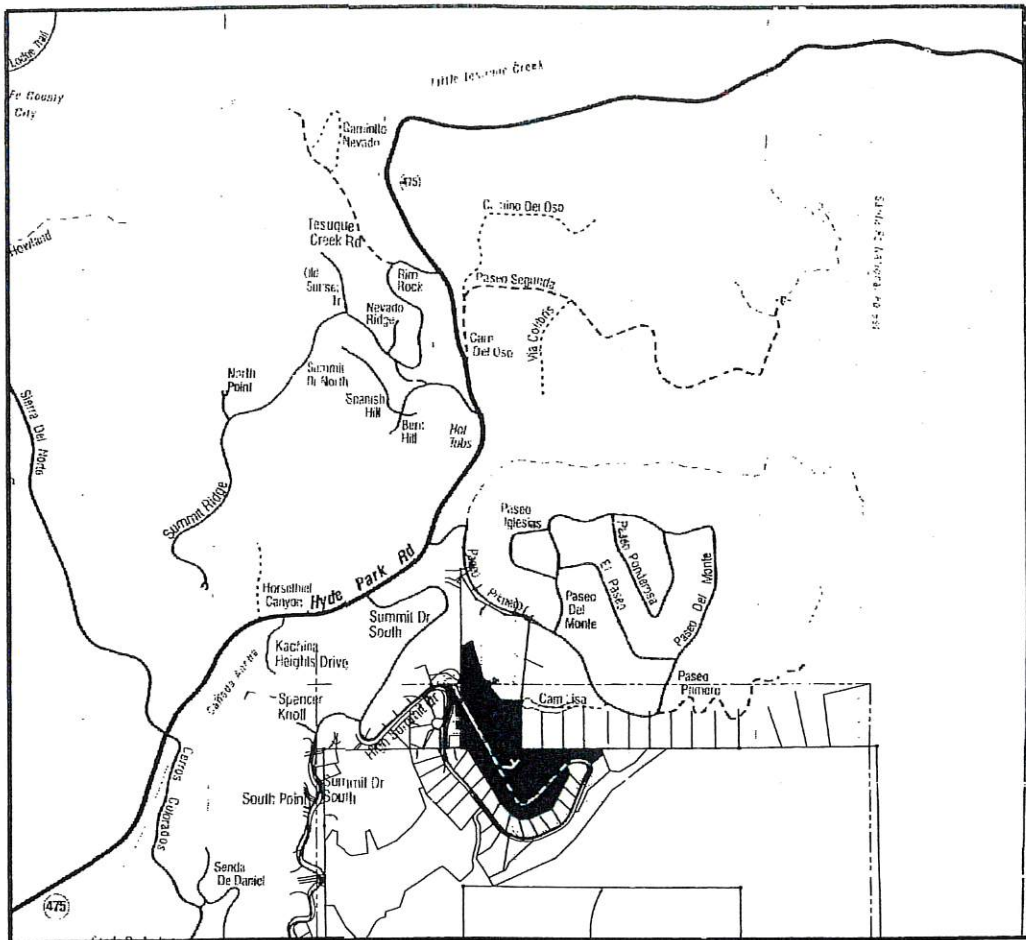
Finally, the original project plans called for a 24' asphalt road with curb and gutter. We would like to reduce this to 20' of asphalt road with curb and gutter on both sides. This meets the current SLDC standard for a local road, and is more than adequate for the project and the Fire Marshal requirements.

Thank you for consideration of this request.

Sincerely,



Orallynn Guerrierortiz, PE



VICINITY MAP NOT TO SCALE

## PUBLIC UTILITY EASEMENTS

PUBLIC UTILITY EASEMENTS shown on this plat are granted for the common and joint use of:

- NEW MEXICO GAS COMPANY for installation, maintenance and service of natural gas lines, valves and other equipment and facilities reasonably necessary to provide natural gas.
- PUBLIC SERVICE COMPANY OF NEW MEXICO for the installation, maintenance, and service of underground electrical lines, transformers, and other equipment, fixtures, structures and related facilities reasonably necessary to provide electrical service.
- CENTURY LINK for installation, maintenance and service of all buried communication lines and other related equipment and facilities reasonably necessary to provide communication services, including but not limited to above ground pedestals and closures. A utility easement is hereby granted to Quest Corporation, d/b/a CenturyLink QC, for any existing communication facilities as they are currently located.
- CABLE TV for the installation, maintenance, and service of such lines, cable and other related equipment and facilities reasonably necessary to provide Cable TV services.

Included, is the right to build, rebuild, construct, reconstruct, locate, relocate, change, remove, modify, renew, operate and maintain facilities for the purposes described above, together with free access to, from, and over said right of way and easement, with the right and privilege of going upon, over and across adjoining lands of Grantor for the purposes set forth herein and with the right to utilize the right of way and easement to extend services to customers of Grantor, and to trim and remove trees, shrubs or bushes which interfere with the purpose set forth herein. No building, sign, pool (above ground or subsurface), hot tub, concrete or wood pool decking, or other structure shall be erected or constructed on said easements, nor shall any well be drilled or operated thereon.

### Disclaimer

In approving this plat, Public Service Company of New Mexico (PNM) and New Mexico Gas Company (NMGC) did not conduct a Title Search of the properties shown hereon. Consequently, PNM and NMGC do not waive or release any easement or easement rights which may have been granted by prior plat, replat or other document and which are not shown on this plat.

## UTILITIES APPROVAL

	12-20-16
NEW MEXICO GAS COMPANY	DATE
	12-20-2016
PNM ELECTRIC SERVICES	DATE
	12-20-16
CENTURY LINK	DATE
	12-19-2016
COMCAST	DATE

## COUNTY OF SANTA FE APPROVALS

Approved by the Board of County Commissioners at their meeting of December 7, 2016

Chairman: Miguel Chay 12/28/16

Attested by: Geraldine Salazar 12/29/2016  
County Clerk

County Development Permit No. 03-4770

Approved by: [Signature] 12/29/16  
County Land Use Administrator

Approved by: [Signature] 12/14/16  
County Fire Marshal

Approved by: [Signature] 12/21/16  
County Public Works Director

Approved by: [Signature] 12/19/16  
County Rural Addressing Director

Approved by: [Signature] 12-16-2016  
City Wastewater Management Division

Approved by: [Signature] 12-18-2016  
City Sangre de Cristo Water Division

Approved by: [Signature] 12-19-16  
County Treasurer

## SURVEYORS CERTIFICATE

I, RICHARD A. CHATROOP, A NEW MEXICO PROFESSIONAL SURVEYOR NO. 11011, DO HEREBY CERTIFY THAT THIS SURVEY PLAT AND THE ACTUAL FIELD SURVEY UPON WHICH IT IS BASED WERE PERFORMED BY ME OR UNDER MY DIRECTION ON OCTOBER, 20TH, 2008; THAT I AM RESPONSIBLE FOR THIS SURVEY AND THAT IT MEETS THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO; AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.



RICHARD A. CHATROOP N.M.P.L.S. #11011

## DEDICATION AND AFFIDAVIT

Know all persons by this presents that White Bear Properties, LLC, a New Mexico limited liability company as the owner (the "Owner") of the lands shown on this subdivision plat (the "Plat") which are located within Santa Fe County, New Mexico, containing an area of 24.11 acres, more or less, has caused the lands to be subdivided as shown on this plat and that said subdivision is named and shall be known as High Summit III Subdivision Phase 2 (the "Subdivision"). All that appears on this plat is made with the free consent and in accordance with the desires of the Owner.

### Grants of Easements:

Roadway Rights-of-way; Grant of Easements. The rights-of-way for roads shown hereon are hereby made subject to a non-exclusive easement for ingress, egress and utilities in favor of the High Summit Homeowners' Association (the "Association") for the benefit of its members, and such rights-of-way are also hereby made subject to an easement for public ingress, egress and utilities. Until such time as Owner shall transfer the ownership of the rights-of-way to the Association, Owner shall be the record title owner of the rights-of-way subject to the grants of easements in favor of the Association and the public as contained in this paragraph. The roadways improvements shall be maintained by the Association, until such time as they are accepted, by resolution, for maintenance by the Santa Fe County Board of Commissioners as provided by N.M.S.A. 1978, as amended, Section 47-6-5 or any other entity having the power and authority to accept the improvements for maintenance.

Utility Easements. The utility companies identified hereon, and the Association (for sewer) (and their successors in interest), and which execute the Plat are granted easements as shown hereon within the roadway rights-of-way for the construction, maintenance, repair and operation of utilities in providing utility and sewer service to the Subdivision. There is hereby created an easement for utility and sewer service to the Subdivision on Lots 28 and 29 for gas lines that exist.

Open Space Reservation. Tract J-1, is hereby reserved for use as open space, drainage, utilities, and use by the Association and such other parties as to whom Owner may grant easements. The members of the Association are hereby granted the right to use Tract J-1, subject to the Amended and Restated Declaration of Restrictive Covenants for High Summit III 3/28/15, recorded on 4-06-15, in the records of the Santa Fe County Clerk, under Reception No. 1761223, (the "Declaration"), the By-laws of the Association, any rules and regulations adopted by the Association.

Grant of Trail Easements. The public pedestrian trail easements shown within Tract L are hereby granted for public use, subject to the rules and regulations adopted by the Association.

Grant of Drainage Easements. Drainage easements are granted as shown for the purpose of maintaining the flow of storm waters. Such easements are granted to the Association, its members and to the lot owners whose surface drainage naturally flows through such easements. The Association is responsible for maintaining all drainage structures and easements. This grant of drainage easements made by this Plat is subject to the Owner's reservation of the right to relocate such drainage easements as Owner deems necessary and convenient for the development of the Subdivision.

Excavation Easements. Excavation easements for cut and fill slopes for all roadway improvements and related drainage structures are hereby granted to the Association and reserved by Owner, for the placement, construction, maintenance, repair and replacement of roadways and roadway appurtenances including easements for road retaining walls, cut and fill slopes, drainage improvements, which easements will vary in width as construction and maintenance requires. There is hereby created an easement for encroachments of any and all roadway improvements, cut or fill slopes, and drainage improvements installed or constructed by Owner within the boundary of any lots or tracts shown hereon.

Sewer Service. Sewer service for this development is connected to the City of Santa Fe Public Sewer System, that is located within Hyde Park Road, through a private low-pressure sewer system owned and maintained by the Association.

Jurisdiction. This subdivision lies within the planning and plotting jurisdiction of the County of Santa Fe, New Mexico.

### OWNER

WHITE BEAR PROPERTIES, LLC  
A New Mexico limited liability company

John J. Greb, Member

The foregoing was sworn, acknowledged and subscribed before me by John J. Greb as Member of WHITE BEAR PROPERTIES, LLC, a New Mexico limited liability company, on behalf of the Company, this 16th day of December, 2016.

Myraeas Delgado

Notary Public

My commission expires: 2-8-2020

CONSENTED AND AGREED TO BY:

HIGH SUMMIT HOMEOWNERS ASSOCIATION

Fred Seibel, President Owner Tract M

The foregoing was sworn, acknowledged and subscribed before me by Fred Seibel the President of HIGH SUMMIT HOMEOWNERS ASSOC. on behalf of the association, this 16th day of December, 2016.

Myraeas Delgado

Notary Public

My commission expires: 2-8-2020

LOS ALAMOS NATIONAL BANK

Owner Lot 2A

The foregoing was sworn, acknowledged and subscribed before me by the Melvin C. Romero, Special Assets Manager of LOS ALAMOS NATIONAL BANK on behalf of the Bank, this 20th day of December, 2016.

Karl H. Bann

Notary Public

My commission expires: 2-8-2020

## SANTA FE COUNTY NOTES AND CONDITIONS

812004

and Tracts C, F and T

- Maintenance of roads, (including emergency access roads), utility easements and drainage structures is the responsibility of the Association. Common driveways and utility easements shall be maintained by the owners of the lots benefiting from common driveway and utility easements.
- Lands shown hereon lie within Zone X - outside of the 500-year flood plain as shown on F.I.R.M. Panel #35049C0409E dated 12/04/12.
- The approval of this plat does not constitute the approval of any further development including building permits.
- Existing natural drainage ways will not be modified or impeded without the written approval of the Land Use Administrator. Development shall not impede historic flow rates or patterns to or from these lots.
- These lots are subject to Santa Fe County Fire and Rescue impact fees at the time of the application for building permit.
- Except as allowed by the variances granted for this subdivision by the Board of County Commissioners, the lots plotted hereon are subject to Section 12.1 of the EZO, Terrain Management Regulations.
- Homes on these lots shall connect to the private sewer system installed for the subdivision. All lot owners must install a sewage grinder pump approved by the Association to connect to the low-pressure sewer. Sanitary sewer individual service lines within the lots shall be the responsibility of the lot owner to construct and maintain. No individual wastewater system shall be allowed.
- The low-pressure sewer line located within the utility easements shall be maintained by the Association.
- These lots are served by the City of Santa Fe Sangre de Cristo Water System. Individual wells are prohibited.
- No building permits shall be granted until such time as the fire hydrants have been tested and approved by the Fire Marshal and the access roads are deemed passable by the Fire Marshal.
- All residential structures are to have NFPA 13D compliant residential sprinkler systems. Designs and these must be approved by the County Fire Marshal prior to individual building permit issuance. A final inspection by the County Fire Marshal for conformance to the approved plans is required prior to building occupancy.
- This subdivision shall comply with all applicable portions of Ordinance 2001-11, Urban-Wildland Interface Code.
- All outdoor lighting shall be shielded.
- All utility lines shall be underground.
- There shall be a 7.5-foot utility corridor adjacent to the back of curb extending along side of all roadway improvements, and to the extent that such utility corridor extends into the residential lots shown hereon, there is hereby created easement to the degree necessary to provide for said utility corridor adjacent to all roadway improvements.
- The High Summit Subdivision III Disclosure Statement is filed in the office of the County Clerk and recorded as Document No. 1385909.
- Lots 34, 35, 37 & 39 as shown hereon are subject to an affordable Housing plan approved by the board of county commissioners.
- The Public Trail Easements are for pedestrian use only between dawn and dusk, and shall not be used for any picnicking, camping, littering or other uses. The trails shall be unimproved and shall meet the Forest Service standard for unimproved trails.
- Santa Fe County's approval of this subdivision plat does not include the construction of the roadways shown hereon. An additional development permit shall be applied for and obtained from the Santa Fe County Land Use Administrator for the development of subdivision improvements shown hereon.
- Water use on these lots is restricted by the Declaration of Restrictive Covenants for High Summit Subdivision III, recorded as Document No. 1385909. A water meter must be installed for each dwelling unit and annual readings must be submitted to the County Hydrologist by December 31st of each year.
- No development may occur within the designated open space. Each lot must have a minimum of 10% of the lot left in its natural condition as Private Open Space.
- Permits for building construction will not be issued until required improvements for roads, drainage and fire protection have been completed as required by County staff.
- Prior to the construction of Dancing Bear Trail, the State Historic Preservation Office must approve a mitigation/treatment plan for archaeological sites LA 140047 and 140049, and also approve the results of the mitigation/treatment plan.
- The lands shown hereon lie within the planning and plotting jurisdiction of Santa Fe County.
- Maintenance of private access easements, utility easements and/or private roadways is not the responsibility of Santa Fe County, unless dedicated and accepted for maintenance by the Santa Fe County public works department and the board of county commissioners.
- The approval of this plat does not constitute approval of any further development including building permits. All standard county permits and fees must be in place prior to commencement of construction activity of any kind. Development permits for building construction will not be issued until required improvements for roads, fire protection, terrain management, and drainage are complete and approved.
- According to FEMA flood insurance rate map (FIRM) community panel No. 35049C0409E, Dated Dec. 04, 2012; this property lies outside the limits of the 100-year (1%) floodplain, in zone X. This designation does not guarantee that the property will be free from flooding or flood related damages.
- The tracts, parcels and/or lots shown hereon lie inside the very high hazard area of the urban wildland interface zone as defined by the Santa Fe County fire department. Fire sprinklers and/or fire storage may be required.
- These tracts, parcels and/or lots are subject to utilizing the Sangre de Cristo water system. Water wells are prohibited without the prior consent of the county Land Use Administrator.

## SPECIAL BUILDING PERMIT CONDITIONS

THE INSTALLATION OF AN AUTOMATIC FIRE SUPPRESSION SYSTEM IS REQUIRED FOR ALL HOMES ON ALL LOTS. THESE LOTS ARE SUBJECT TO UTILIZING THE SANGRE DE CRISTO WATER SYSTEM. INDIVIDUAL WELLS ARE NOT PERMITTED. THESE LOTS ARE SUBJECT TO USING THE HIGH SUMMIT III PRIVATE SEWER SYSTEM NO INDIVIDUAL WASTEWATER SYSTEM SHALL BE ALLOWED. THE PARCELS, LOTS, OR TRACTS PLATTED HEREON ARE SUBJECT TO CHAPTER 7, SECTION 7.17 OF THE SUSTAINABLE LAND DEVELOPMENT CODE, AS WELL AS ALL PERTINENT COUNTY CODE AND ORDINANCES AT THE TIME OF DEVELOPMENT. THESE LOTS ARE SUBJECT TO SANTA FE COUNTY FIRE AND RESCUE IMPACT FEES AT THE TIME OF APPLICATION FOR DEVELOPMENT PERMIT. DEVELOPMENT PERMITS FOR BUILDING CONSTRUCTION WILL NOT BE ISSUED UNTIL ALL REQUIRED IMPROVEMENTS FOR ROAD AND EMERGENCY TURN-AROUND ARE COMPLETED AND APPROVED BY STAFF.

### VARIANCES:

The following variances were granted with approval of this development:

- To allow two cul-de-sacs with lengths greater than 1,000 feet;
- To allow replacement of standard curb and gutter with stone curbs;
- To allow disturbance of slopes greater than 30% or greater for road/driveway and building construction; and
- To allow more than 50% of structures to be on slopes of 20% to 30%.

### PURPOSE STATEMENT

The purpose of this subdivision plat is to amend existing lot boundaries and create 22 PHASE 2 lots.

## SUBDIVISION PLAT FOR HIGH SUMMIT III SUBDIVISION PHASE 2

AND LOT LINE ADJUSTMENT PHASE 1, LOT 2A, TR.M, TR.C AND TR.T LYING WITHIN SECS. 9 AND 16 T17N, R10E, NMPM, SANTA FE CO., NM.

EXHIBIT 2  
SANTA FE COUNTY CLERK  
NO. 11011  
LOS, NM 87010  
CLERK

LOCATION: LYING WITHIN SECS. 9 AND 16 T17N, R10E, NMPM, SANTA FE CO., NM.

SHEET 1

# LEGEND AND NOTES

812005

- DENOTES POINT FOUND AS NOTED
- DENOTES POINT SET THIS SURVEY
- DENOTES POINT CALCULATED
- DENOTES BRASS MONUMENT



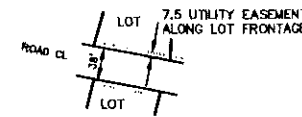
DENOTES BUILDABLE AREA FROM FINAL DEVELOPMENT  
PLAN PLAT BK.591 PG. 025 (SEE NOTE #1)

DENOTES EDGE OF EASEMENT  
X X X X X  
DENOTES FENCE LINE

1. BASIS OF BEARING IS FROM  
"LOT LINE ADJUSTMENT AND SUBDIVISION PLAT HIGH SUMMIT III SUBDIVISION  
PHASE 1" BY RICHARD A. CHATROOP N.M.P.L.S. #11011 AND RECORDED IN  
PLAT BOOK 591, PGS. 019-025, IN THE OFFICE OF THE SANTA FE COUNTY  
CLERK

2. THIS PLAT IS SUBJECT TO ANY EASEMENTS, RESTRICTIONS  
AND COVENANTS OF RECORD.

## TYPICAL LOT FRONTAGE UTILITY ESMT



TRUE  
MAG.

NORTH  
SCALE 1"=100'

LINE	LENGTH	BEARING
L1	38.07	S19°08'07"E
L2	22.23	N83°37'23"E
L3	29.58	S18°56'12"E
L4	42.78	S58°19'26"E
L5	8.04	N45°37'06"E
L6	53.93	S45°28'28"E
L7	81.25	N25°49'04"E
L8	60.00	N60°25'05"W
L9	30.00	S67°13'51"W
L10	31.25	N01°47'47"W
L11	68.75	N01°47'47"W
L12	29.53	N69°04'11"W
L13	50.47	N69°04'11"W
L14	108.16	N40°02'35"W
L15	22.23	S83°37'23"W
L16	80.00	N84°22'47"E
L17	81.25	S25°49'04"W
L18	60.59	N62°42'45"W
L19	38.56	N45°28'28"W
L20	78.78	N00°03'15"W
L21	76.75	N21°51'56"E
L22	84.38	N03°14'28"E
L23	106.82	N05°10'41"E
L24	14.65	S45°36'12"W
L25	82.46	S02°39'08"E
L26	6.00	S87°20'52"W
L27	56.89	S38°41'16"W
L28	29.65	S38°41'16"W
L29	80.66	N28°07'21"W
L30	53.52	N30°52'55"W
L31	38.00	N59°07'04"E
L32	50.00	S30°52'56"E
L33	50.00	N38°41'16"E
L34	38.00	S51°18'44"E
L35	31.95	S88°50'08"W
L36	126.53	S38°41'16"W
L37	20.00	S38°41'16"W
L38	84.27	N41°36'59"E
L39	62.42	N39°13'11"E

1926 USGLOS BRASS  
CAP. T.17N, R.10E,  
SEC. 15 & AP1 TR.44

LOT	ACREAGE
L27	0.56
L29	0.76
L30	0.90
L31	0.45
L33	0.63
L34	0.32
L35	0.47
L36	0.73
L37	0.43
L39	0.32
L40	0.77
L42	0.58
L44	0.55
L45	0.77
L46	0.88
L48	0.80
L50	0.77
L51	0.50

SUBDIVISION PLAT FOR  
HIGH SUMMIT III SUBDIVISION  
PHASE 2  
AND  
LOT LINE ADJUSTMENT  
PHASE 1, LOT 2A, TR.M, TR.C AND TR.T  
LYING WITHIN SECS. 9 AND 16 T17N, R10E, N.M.P.M., SANTA FE CO., NM.

**RICK CHATROOP**  
PROFESSIONAL LAND SURVEYOR  
NEW MEXICO REGISTRATION NO. 11011  
(505) 470-0037 110 WAGON TRAIL RD. CERRILLOS, NM. 87010

INDEXING INFORMATION FOR THE COUNTY CLERK  
OWNER: WHITE BEAR PROPERTIES, LLC  
LOCATION: LYING WITHIN SECS. 9 AND 16 T17N, R10E, N.M.P.M., SANTA FE CO., NM.

NBA-13

## KEY TO EASEMENTS

- (A) 20' WIDE ACCESS AND UTILITY EASEMENT ALONG PROPERTY LINE OR EXTENSION OF PROPERTY LINE
- (B) 20' WIDE DRAINAGE EASEMENT CENTERED ON PROPERTY LINE
- (C) 38' WIDE ACCESS AND UTILITY EASEMENT ALONG PROPERTY LINE OR EXTENSION OF PROPERTY LINE
- (D) 20' WIDE DRAINAGE EASEMENT ALONG PROPERTY LINE OR EXTENSION OF PROPERTY LINE
- (E) 38' WIDE ACCESS AND UTILITY EASEMENT ALONG PROPERTY LINE OR EXTENSION OF PROPERTY LINE
- (F) 125'x125' WATER TANK TRACT CONVEYED TO PUBLIC SERVICE COMPANY OF NEW MEXICO, INC. BY DEED RECORDED IN RECORDS OF SANTA FE COUNTY AT BOOK , PAGES THROUGH

## KEY TO CENTERLINE DATA

LINE	LENGTH	BEARING
L1	72.96	N05°55'11"W
L2	237.11	N21°18'28"W
L3	68.32	N05°06'33"W
L4	57.36	N06°20'38"E
L5	42.42	N25°15'27"E

LINE	LENGTH	BEARING
L6	64.24	N82°45'18"E
L7	73.85	N82°45'18"E

LINE	LENGTH	BEARING
L8	92.32	N67°37'32"W
L9	84.99	N06°03'56"W

LINE	LENGTH	BEARING
L10	96.44	N22°44'23"W
L11	64.08	N48°40'18"E

LINE	LENGTH	BEARING
L12	70.18	S27°37'34"W
L13	128.73	S44°52'00"W

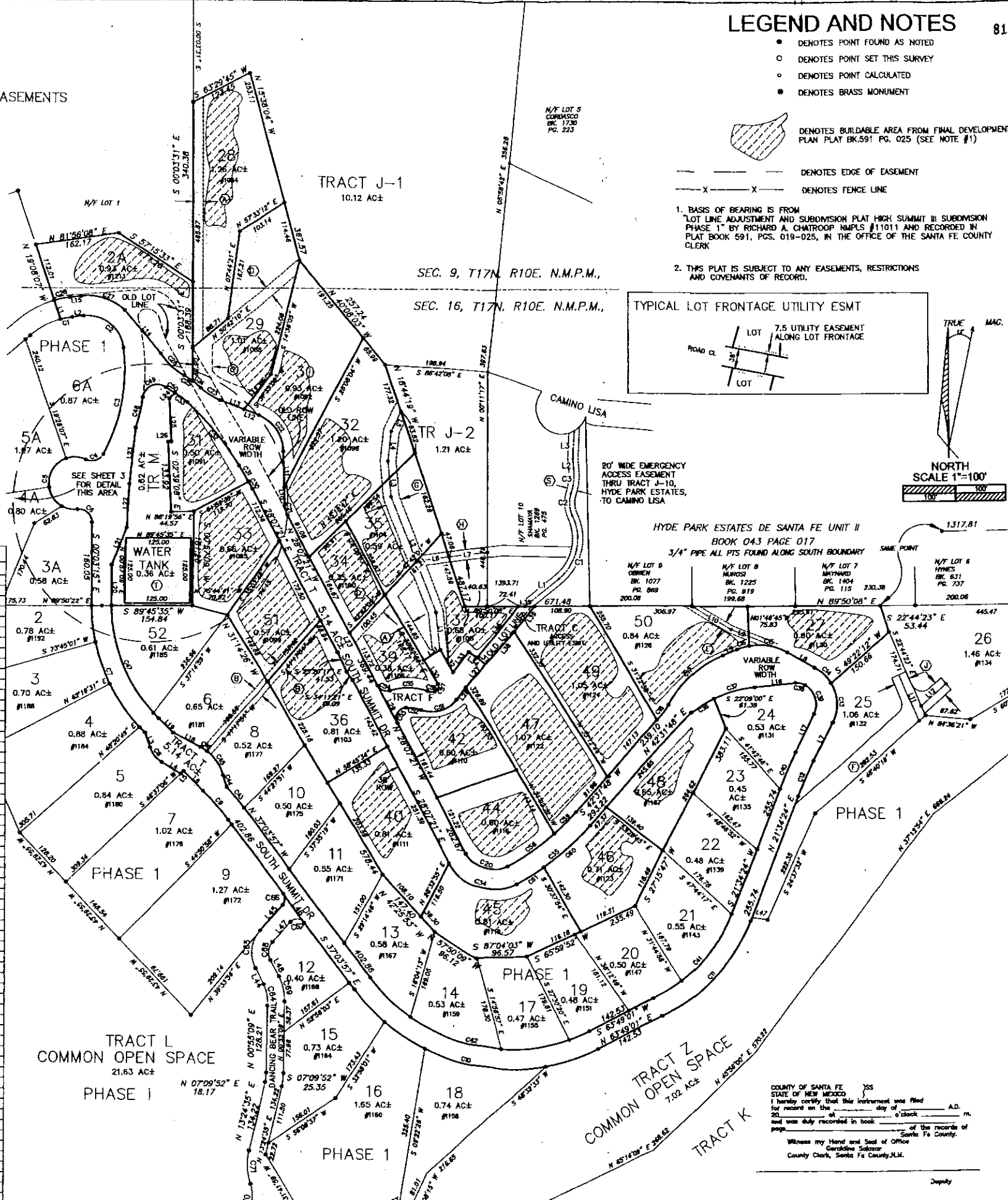
LINE	LENGTH	BEARING
L14	84.75	N51°35'10"E
L15	20.00	N05°35'22"W
L16	53.12	N03°06'49"E

## CURVE TABLE

CURVE	LENGTH	RADIUS	CHORD BRG	CHORD DIST
C1	134.43	99.37	N12°49'50"E	124.41
C2	44.60	57.48	S03°41'50"E	43.49
C3	46.34	110.09	N06°28'14"E	46.00

## CURVE TABLE

CURVE	LENGTH	RADIUS	CHORD BRG	CHORD DIST	DELTA
C1	23.06	150.00	S29°13'10"W	23.03	8°48'25"
C2	109.00	70.00	N51°46'08"E	98.32	88°12'58"
C3	209.87	337.42	N10°39'26"E	206.50	35°38'09"
C4	38.18	25.00	N72°13'25"E	34.57	87°28'49"
C5	185.84	50.00	S09°29'31"W	95.89	212°57'36"
C6	42.30	25.00	N48°31'18"W	37.43	96°56'02"
C7	270.15	340.78	S22°45'51"E	263.13	45°25'12"
C8	37.11	53.88	S38°37'50"E	36.39	39°23'15"
C9	74.26	506.00	N41°16'12"W	74.19	8°24'31"
C10	525.73	380.73	S76°37'28"E	484.95	79°07'02"
C11	253.63	344.00	N42°41'43"E	247.92	42°14'37"
C12	73.63	994.00	S23°41'44"W	73.62	4°14'40"
C13	79.00	81.00	N02°07'26"E	75.91	55°53'01"
C14	42.91	81.00	N45°14'31"W	42.41	30°21'08"
C15	76.86	110.14	N80°24'37"W	75.31	39°59'04"
C16	23.77	110.14	S73°24'51"W	23.73	12°21'59"
C17	143.93	206.73	S47°17'06"W	141.04	39°53'32"
C18	36.94	108.87	N37°03'39"E	36.77	19°26'38"
C19	170.48	494.00	N52°24'59"E	169.64	19°46'23"
C20	90.68	58.00	S72°54'35"E	81.72	89°34'28"
C21	22.30	48.53	S14°57'34"E	22.10	26°19'34"
C22	89.63	76.33	N35°25'59"W	84.57	67°16'24"
C23	44.29	114.45	S57°59'07"E	44.01	22°10'09"
C24	20.64	149.10	N50°51'59"W	20.62	7°55'55"
C25	19.79	149.10	N58°38'06"W	19.78	7°36'19"
C26	62.09	118.22	S47°23'26"E	61.38	30°05'40"
C27	90.12	108.00	N72°28'24"W	87.52	47°48'27"
C28	31.52	188.00	N78°49'11"E	31.48	9°36'24"
C29	15.49	962.00	N28°35'02"W	15.49	0°55'21"
C30	35.60	962.00	N30°06'19"W	35.59	2°07'12"
C31	157.91	569.14	N39°58'49"W	157.40	15°53'48"
C32	30.10	127.94	N54°40'09"W	30.03	13°28'52"
C33	150.08	96.00	S72°54'35"E	135.26	89°34'28"
C34	183.80	532.00	N52°24'59"E	182.69	19°46'23"
C35	52.08	229.79	S57°31'52"W	51.97	12°59'06"
C36	81.51	229.79	S74°13'06"W	81.08	20°19'22"
C37	18.46	30.05	N78°01'09"W	18.17	35°12'08"
C38	64.72	43.00	N17°18'01"W	58.78	86°14'10"
C39	76.45	1032.00	S23°41'44"W	76.43	4°14'40"
C40	226.61	306.00	N42°41'43"E	220.54	42°14'37"
C41	473.26	342.73	S76°37'28"E	436.55	79°07'02"
C42	52.07	543.97	N39°48'28"W	52.05	5°29'03"
C43	23.73	242.91	S18°08'15"E	23.72	5°35'48"
C44	56.72	86.15	N34°11'58"W	55.70	37°43'07"
C45	14.52	86.14	N57°53'07"W	14.50	8°39'25"
C46	240.03	302.78	S22°45'51"E	233.79	45°25'12"
C47	60.28	375.42	N12°29'47"E	60.22	9°11'59"
C48	58.10	28.00	S67°21'18"W	48.22	118°53'33"
C49	20.63	214.40	S88°09'10"E	20.62	5°30'49"
C50	78.50	63.28	N74°13'39"E	73.56	71°04'46"
C51	29.39	70.00	N82°47'46"W	29.17	24°03'08"
C52	39.74	20.00	S28°34'51"E	33.52	113°50'18"
C53	28.25	20.00	S88°38'10"W	25.96	80°55'00"
C54	73.15	108.00	N89°07'52"E	71.76	38°48'23"
C55	14.07	25.28	S88°38'10"W	13.65	31°47'58"
C56	18.00	10.00	N63°32'34"E	16.27	108°51'01"
C57	110.73	494.00	N55°32'55"E	110.49	12°50'32"
C58	59.78	494.00	N45°58'41"E	59.72	6°55'51"
C59	121.72	532.00	N49°05'04"E	121.45	13°06'32"
C60	61.88	532.00	N58°58'15"E	61.84	6°39'51"







NBA-15



NBA-16



Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3).

	Avg. daily traffic	# of driving lanes	Lane width (ft)	Non-vehicular side paths	Bike lanes	Minimum ROW (ft)	Design Speeds (mph)	Max % Grade	Min. agg. base course	Min. bit. pavement	Max % Super-elev.
Major arterial or highway	5000 +	2-4	12	n/a	Two 5 ft. on-road	150	Level: 70 Rolling: 70 Mount.: 50-60	5%	6"	6"	8%
Minor arterial	2000 to 4999	2 - 4	12	n/a	Two 5 ft. on-road	120	Level: 60-75 Rolling: 50-60 Mount.: 40-50	5%	6"	5"	8%
Collector	401-1999	2	11	n/a	n/a	80	Level: 40-60 Rolling: 20-50 Mount.: 20-40	8%	6"	4"	8%
Local	0-400	2	10	n/a	n/a	50	Level: 30-50 Rolling: 20-40 Mount.: 20-30	9%	3"	n/a	8%
Cul-de-Sac	0 to 300	2	10	n/a	n/a	38	Level: 30-50 Rolling: 20-40 Mount.: 20-30	9%	63"	n/a	n/a
Residential Driveway	n/a	1	14	n/a	n/a	20	n/a	10 %	n/a	n/a	n/a

**7.11.3. General Requirements.** Adequate roads shall be provided such that the arrangement, character, extent, width and grade of each shall conform to this Section.

**7.11.3.1. Connectivity.** The arrangement of roads in any development shall provide for the continuation or appropriate projection of existing or proposed highway or arterial roads in surrounding areas according to the Official Map, and shall provide reasonable means of ingress and egress to surrounding property. Roads within subdivisions shall not be gated unless the road is a dead end road serving no more than five (5) lots.

**7.11.3.2. Road Names.** Road names or numbers shall not duplicate or be similar to the names or numbers of existing roads; if the proposed road is an extension of an existing road, then the proposed road shall have the name of the existing road. All road names and numbers shall be assigned by the Santa Fe County Rural Addressing Division.

**7.11.3.3. Service Life.** Pavement shall be designed for a 20-year service life, and the design of pavement structures shall conform to the New Mexico Standard Specifications for Road and Bridge Construction. Design documentation shall be prepared and signed by, or shall be reviewed by, a professional engineer.

**7.11.3.4. Rules of Intersection.** Section 7.11 fails to adequately address



#### 7.17.10.7. Screening Requirements.

1. The facade of any structure taller than four feet (4'), including retaining walls, which is visible from any public right-of-way shall be screened with appropriate shrubs or trees. New plants shall be the same as or similar to existing, indigenous trees on the site.

2. Screening requirements shall be coordinated with fire safety zones.

3. Trees used for required screening structures shall be a minimum of six feet (6') tall and one and one-half inch (1.5") caliper at the time of planting. In addition, fifty percent (50%) of required new shrubs shall be of a minimum size of five (5) gallons at the time of planting.

4. Except as otherwise required for screening purposes or fire safety zones, new vegetation shall be planted at commensurate density to that on the site prior to development.

5. Except as set forth below, all cut and fill slopes and retaining walls more than four feet (4') high and with a grade of 3:1 or more shall have screening vegetation planted and maintained at the base of the slope. However, those with a grade of less than 3:1 shall have screening vegetation planted and maintained on the entire cut or fill slope as follows:

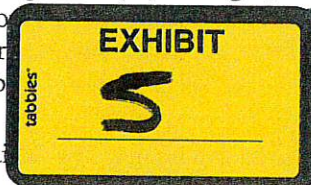
a. Screening vegetation shall be planted and maintained in addition to all revegetation required elsewhere in this Code, and shall be indigenous evergreen trees characteristic of the immediately adjacent area. No trees are required for solid rock terrain.

b. All trees shall be a minimum of six feet (6') high at the time of planting, and shall be planted and maintained at a similar density to the adjacent existing natural landscape. The landscaping density shall be determined by an inventory of existing natural trees of four feet (4') or greater in height in a fifty by fifty foot (50' x 50') square within the cut or fill area prior to excavation. The inventory of the existing natural trees within the cut and fill area shall be shown on the landscape plan.

c. Existing indigenous evergreen trees over six feet (6') high and located within four feet (4') of the base of the cut and fill slope may be counted toward fulfilling the number of trees required for screening.

d. Cut slopes with a slope or retaining wall closer than six feet (6') from the edge of a road or driveway may be screened with a trellis supporting planted vegetation.

6. Where any structure is greater than eight feet (8') high but no more than fourteen feet (14') high, there shall be at least one (1) indigenous evergreen tree such that no more than fifty percent (50%) of the structure is exposed from the highest point on the structure to the top of the tree. Where any structure is greater than fourteen feet (14') high, there shall be at least one (1) indigenous evergreen tree of at least eight feet (8') in height, which shall be located not more than fifteen feet (15') from the structure. The tree or shrub, at maturity, shall be such that it must meet the objective of breaking up both the vertical and horizontal lines of the structure. The tree or shrub, at maturity, shall be such that it must meet the objective of breaking up both the vertical and horizontal lines of the structure. The tree or shrub, at maturity, shall be such that it must meet the objective of breaking up both the vertical and horizontal lines of the structure. The tree or shrub, at maturity, shall be such that it must meet the objective of breaking up both the vertical and horizontal lines of the structure.



NBA-19

7. There shall be at least one tree existing or planted of at least six feet (6') in height for every fifteen linear feet (15') of horizontal wall of each structure which shall be located not more than fifteen feet (15') from such wall.

8. No retaining walls shall be greater than five feet (5') in height. When retainage greater than five feet (5') is required, multiple retaining walls shall be used, which must be set back a minimum of six horizontal feet (6') from face of wall to face of wall. Setback area grading shall not exceed a one percent (1%) cross slope and all walls shall be screened in accordance with Section 7.17.10.7 above.

9. The landscaping requirements set forth in this Section shall be in addition to all other landscaping requirements in Section 7.6.

#### **7.17.10.8. Lighting Design Standards.**

1. Use of cut off or shielded luminaires is required. All light sources or bulbs shall be shielded so they are not visible from any adjacent lot or public roadway and so that no light rays are emitted by the installed fixture at angles above the horizontal plane. All outdoor lighting fixtures shall meet the requirements for lamp type and shielding set forth in Section 7.8.

2. Spillover of lighting of any type onto adjacent property is prohibited.

3. No light fixture or mounting device shall be higher than the buildings on a parcel.

4. Ground-mounted luminaires for pedestrian or parking areas are limited to height of three feet (3').

5. Flood lights to enhance architectural features of a building or garden areas at night are prohibited.

6. Decorative lamps shielding low watt incandescent, low pressure sodium or other energy efficient light sources for walls under portals are permitted.

7. Spotlights, mercury vapor and halogen security lights are prohibited.

8. Automatic timing devices may be required to turn off lighting at specified hours.

9. A range of lighting design solutions for the various aspects of a development shall be considered over a single lighting solution.

10. Where the installation of street lights is required for reasons of safety or convenience, standards for street lights are set forth in Section 7.8.4, and are incorporated by reference herein.

11. No new lighting shall be used or installed that is visible from a major arterial when illuminated.

12. The lighting requirements set forth in this Section shall be in addition to all other lighting requirements in Section 7.8 of this Code.

NBA-20

# SANTA FE + NEW MEXICAN

Founded 1849

LEGAL #83311

**CASE # V17-5229**  
**Oreo, LLC. Variance**

## **NOTICE OF PUBLIC HEARING**

Notice is hereby given that a public hearing will be held to consider a request Oreo, LLC., Applicant, Design Enginuity (Oralynn Gerrerortiz) Agent, request a variance to the requirements set forth in the Sustainable Land Development Code (SLDC) of Chapter 7, Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow a section of South Summit Drive to exceed 9% grade and a variance of Chapter 7, Section 7.17.10.7.8 Screening Requirements to allow existing (14) ft. retaining walls to exceed the (5) ft. height limitation. The property is located within the Residential Community Zoning District (RES-C) at South Summit Drive, within Section 16, Township 17 North, Range 10 East, (Commission District 4).

**A public hearing**

Continued...

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 26th day of October 2017, at 3:00 p.m. on a petition to the Santa Fe County Hearing Officer and on 21st day of December 2017, 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 October 11, 2017.



NBA-21

## CERTIFICATION OF POSTING

I hereby certify that the public notice posting regarding Sustainable Land Development Code.

Case # 17-5520 was posted for 15 days on the property beginning

The 11<sup>th</sup> day of October  
2017. \*\*

Chad B. Linger  
Signature

\*Photo of posting must be provided with certification

**\*\*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.

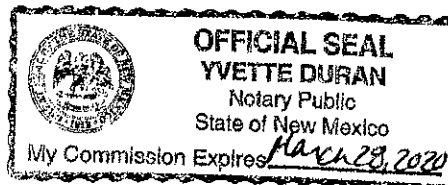
STATE OF NEW MEXICO }  
COUNTY OF SANTA FE }

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of  
October, 2017, By Charlie Gonzales.

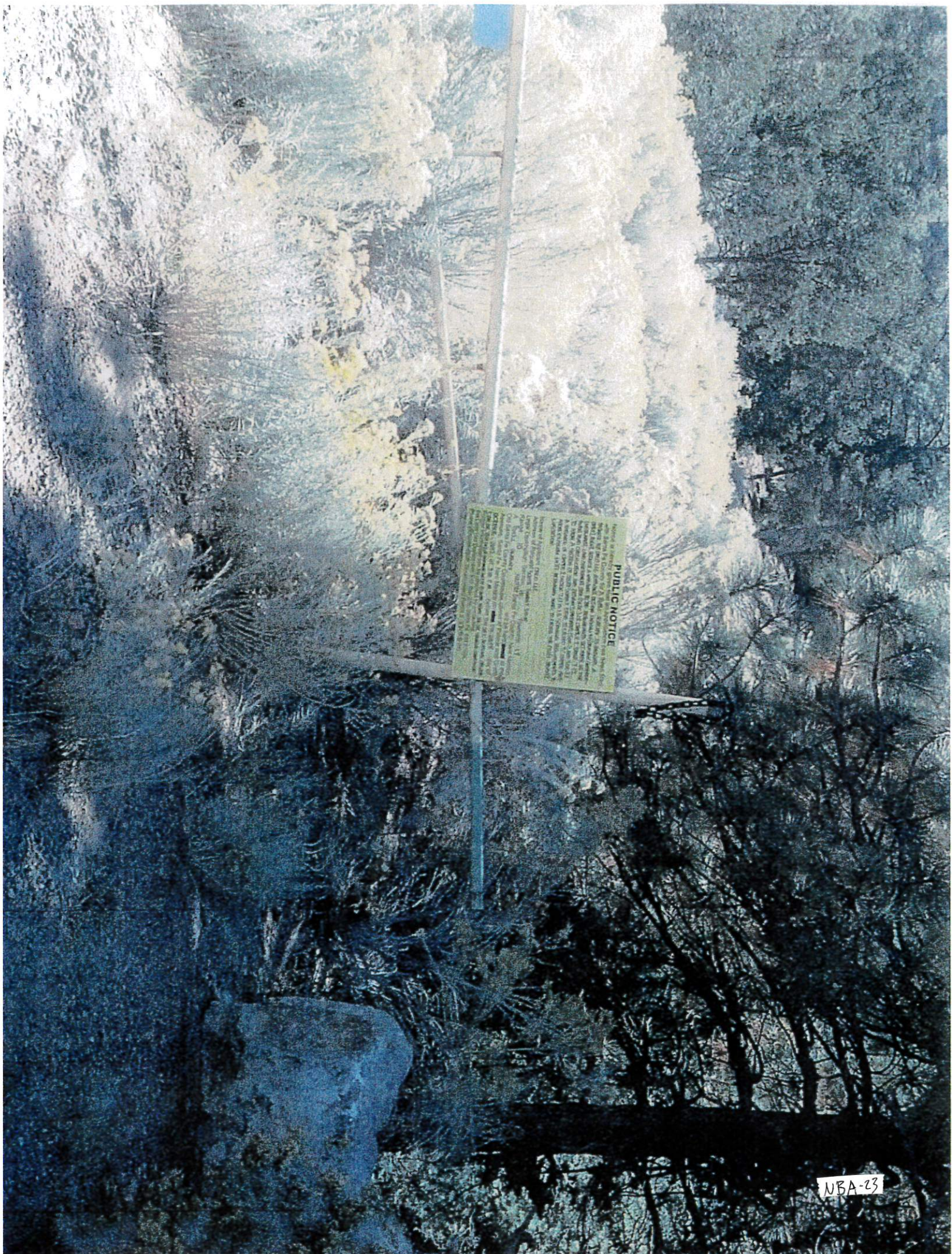
Yvette Duran  
Notary Public

My Commission Expires:

March 28, 2020



NBA-22



**PUBLIC NOTICE**

Notice is hereby given that the Board of Supervisors of the County of Santa Clara, California, has adopted a resolution to approve the proposed project of the Santa Clara Valley Water Board, known as the "Santa Clara Valley Water Board Project", and to authorize the Board of Supervisors to execute the necessary documents to carry out the project.

The project is described in the attached "Statement of Project Description" and "Statement of Environmental Findings" which are available for public review at the County Administration Center, 1000 North First Street, San Jose, California 95128, from 9:00 a.m. to 5:00 p.m. on the following dates:

Monday, January 14, 1991  
Tuesday, January 15, 1991  
Wednesday, January 16, 1991  
Thursday, January 17, 1991  
Friday, January 18, 1991

Any person wishing to comment on the project should do so in writing and submit the comments to the County Administration Center, 1000 North First Street, San Jose, California 95128, by the close of business on the last day of the public review period.

For more information, contact the County Administration Center, 1000 North First Street, San Jose, California 95128, at (408) 298-1234.

NBA-23



NBA-24

BRUTSCHE, RALPH  
PO BOX 2046  
SANTA FE, NM 87504

KIRBY, ARTHUR G JR & MARY LOU  
6 WOODLAND WAY  
DUXBURY, MA 02332

FLEISCHAKER, JOSEPH L & EMILY R  
TRUSTEES  
100 N BROADWAY STE 2460  
OKLAHOMA CITY, OK 73102

KENNEDY, BRIDGETTE M  
2125 PASEO PRIMERO  
SANTA FE, NM 87501

LEWIS, MADELINE A  
2096 PASEO PRIMERO  
SANTA FE, NM 87501

WEST, TABER DEAUVILLE & SAYURI  
4827 YUCCA ST  
LOS ALAMOS, NM 87544-1656

LOS ALAMOS NATIONAL BANK  
PO BOX 60  
LOS ALAMOS, NM 87544-0060

GREVEY-LIBERMAN  
2015 WYOMING NE  
ALBUQUERQUE, NM 87112

REID, WILLIAM L & LINDA D  
2084 PASEO PRIMERO  
SANTA FE, NM 87501

WATSON, JEFFREY B & CONNIE S  
2408 VICTORY PARK LN STE 1234  
DALLAS, TX 75219-7620

RAJANNA, KRISHNA  
1229 S SUMMIT DR  
SANTA FE, NM 87501-8310

BAER, DAN E & ANGELA R CONKLIN  
3838 TAMIAMI TRL N STE 410  
NAPLES, FL 34102-3586

MALONE, PATRICK & VICKI  
4901 ESSEX AVE  
CHEVY CHASE, MD 20815

DOUGHTY, JASON E & JODI A  
4357 POTOMAC AVE  
DALLAS, TX 75205

ROMERO, ALICE L (TRUSTEE)  
1029 SABLE CIR  
LAS CRUCES, NM 88001-2385

VENNEMA, PETER & DIANE  
1512 PACHECO ST STE D203  
SANTA FE, NM 87505

HUMMEL, GARY & KATHERINE H  
12307 HONEYWOOD TRL  
HOUSTON, TX 77077

APPELBAUM, MARC B & LYNN S  
114 BLACK RIVER RD  
LONG VALLEY, NJ 07853

CONNELLY, KEVIN HOOKER & ANITA  
MARIE  
26332 W 110TH TER  
OLATHE, KS 66061

PERLE, MICHAEL D & PATRICIA  
2407 CHRIS WOOD CT  
OAKTON, VA 22124

BERN, MURRAY & NANCY  
1184 S SUMMIT DR  
SANTA FE, NM 87501

SULLIVAN, KATHLEEN M & JOHN H  
PRINGLE  
12911 WEST BLUFF CREEK DR  
PLAYA VISTA, CA 90094-2534

VENNEMA, PETER & DIANE  
1512 PACHECO ST STE D203  
SANTA FE, NM 87505

KOMAI, DONALD S & LYNNE B  
30 ROSECREST AVE  
ALEXANDRIA, VA 22301

ROSE, KENNETH M & ROXANNE L  
2807 ALLEN ST # 332  
DALLAS, TX 75204-1031

MATTESON CONSTRUCTION, INC  
7 B CORPORATE CENTER CT  
GREENSBORO, NC 27408

WEBER, DONALD J & DEBRA C  
331 ZORN PL APT 3  
LOUISVILLE, KY 40206-1542

LAPOSATA, DAVID GREGORY & CAROL  
ANN  
1185 S SUMMIT DR  
SANTA FE, NM 87501

SHERR, LAUREL E  
PO BOX 95497  
ALBUQUERQUE, NM 87199

NESTOR, ROBERT L & SARAH A  
466 W SAN FRANCISCO ST  
SANTA FE, NM 87501  
NBA-25

THE NATURE CONSERVANCY  
212 E MARCY STE 200  
SANTA FE, NM 87501

FRAWLEY, DAVID & SHAMBHAVI CHOPRA  
2095 PASEO PRIMERO  
SANTA FE, NM 87501

SEIBEL, FREDERICK T & MOLLY H  
TRUSTEES  
1135 S SUMMIT DR  
SANTA FE, NM 87501

NUROSI, AKI & HAMMETT  
174 LAUREL AVE  
PROVIDENCE, RI 02906

PERRIN, RICHARD & MICHELLE  
9303 E LAKE HIGHLANDS DR  
DALLAS, NM 75218

CITY OF SANTA FE  
P O BOX 909  
SANTA FE, NM 87504-0909

SLOTOROFF, JARED M & DANIELLE F  
MANIERI  
3300 CAMINO LISA  
SANTA FE, NM 87501-8794

WESTERBERG, BRIAN J  
225 RODRIGUEZ ST  
SANTA FE, NM 87501-2262

THORNE, FREDERICK GRAYDON  
7 SOUTH CRESCENDO PATH PL  
SHENANDOAH, TX 77381-2791

COSENTINO, MICHAEL  
11990 MARKET ST #803  
RESTON, VA 20190-60002

HILTON, JUSTIN  
PO BOX 142229  
AUSTIN, TX 78714

CISNEROS, LESTER R & MARY E  
PIOTROWSKI  
3309 CAMINO LISA HPE  
SANTA FE, NM 87501

SEDILLOS, JON J & MARJORIE JEAN  
236 21ST PLACE  
SANTA MONICA, CA 90402

CARTWRIGHT, DAVID W (TRUST)  
3301 CAMINO LISA  
SANTA FE, NM 87501

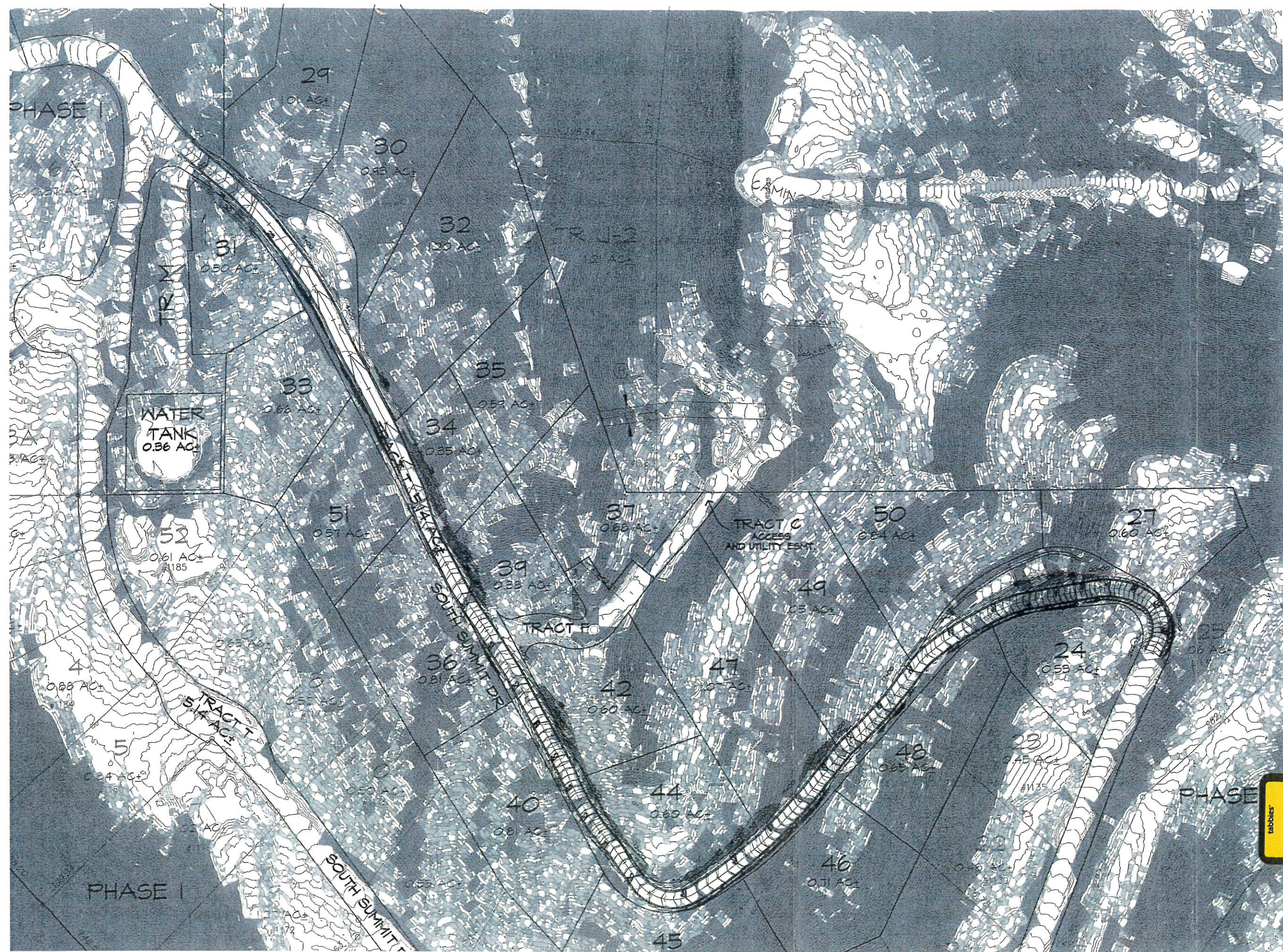
CORDASCO, VINCENT T & LYNN D  
2512 DUNWICK DR  
PLANO, TX 75023

ANDERSON, THOMAS  
2116 PASEO PRIMERO  
SANTA FE, NM 87501

HELFRICH, PAUL & MAUREEN  
2101 PASEO DEL MONTE  
SANTA FE, NM 87501

SHOOK, JAMES C & JOHANNA B (CO-  
TRUSTEES)  
2092 PASEO PRIMERO  
SANTA FE, NM 87501

MCMULLIN REVOC FMFLY TRUST  
1040 N QUINCY ST STE 100  
ARLINGTON



LEGEND

- 0 TO 15% SLOPE
- 15% TO 20% SLOPE
- 20% TO 25% SLOPE
- 25% AND OVER SLOPE



NORTH

SCALE 1"=60'

EXHIBIT  
**7**

REVISIONS	
DATE	BY

NBA-27

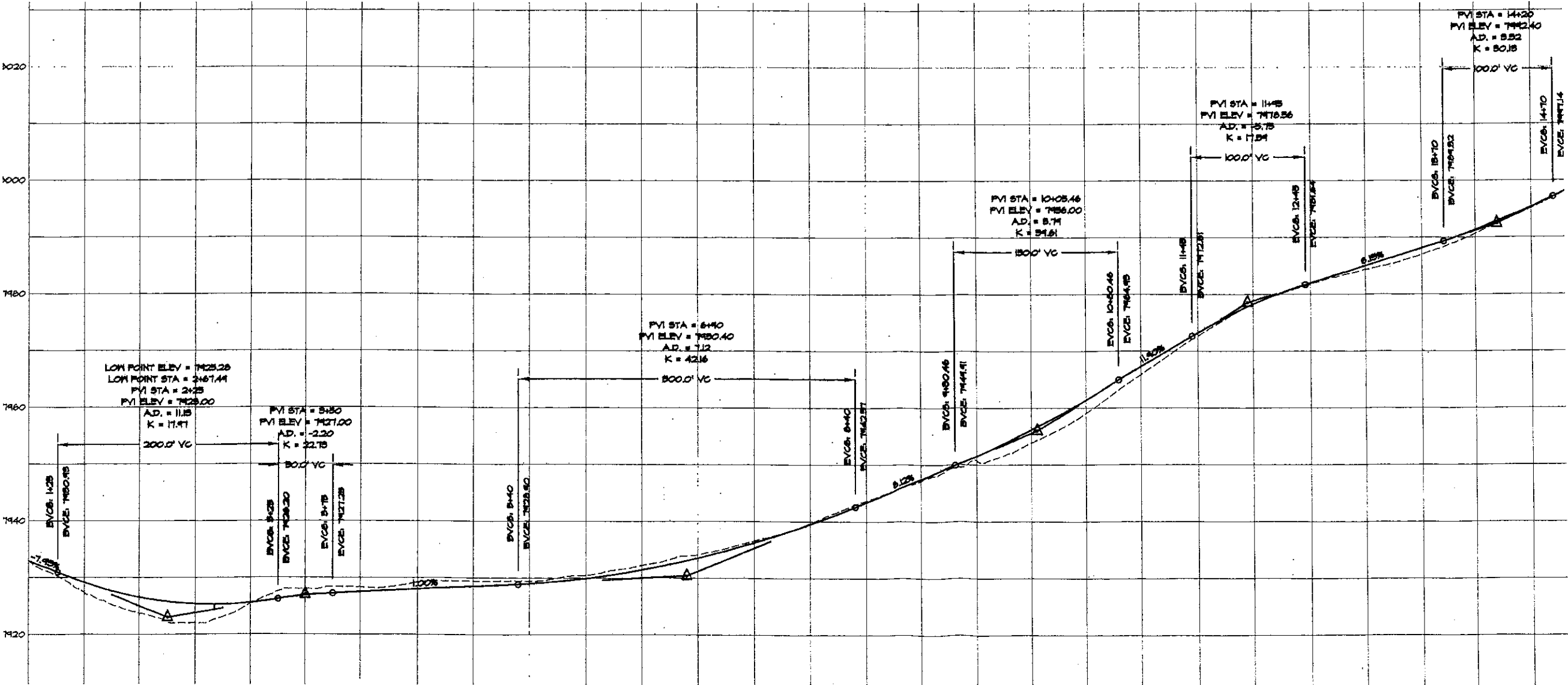
DESIGN ENGINEER

1421 LUISA STREET, SUITE C  
SANTA FE, NEW MEXICO 87505  
(505) 951-9991

HIGH SUMMIT III - PHASE 2



SCALE 1"=50'  
 50' 0 50'  
 HORIZONTAL: 1" = 50'  
 VERTICAL: 1" = 10'



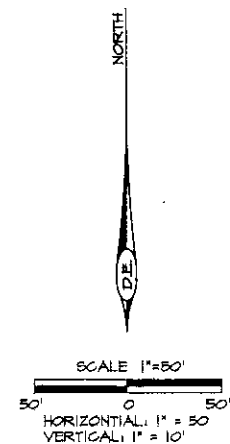
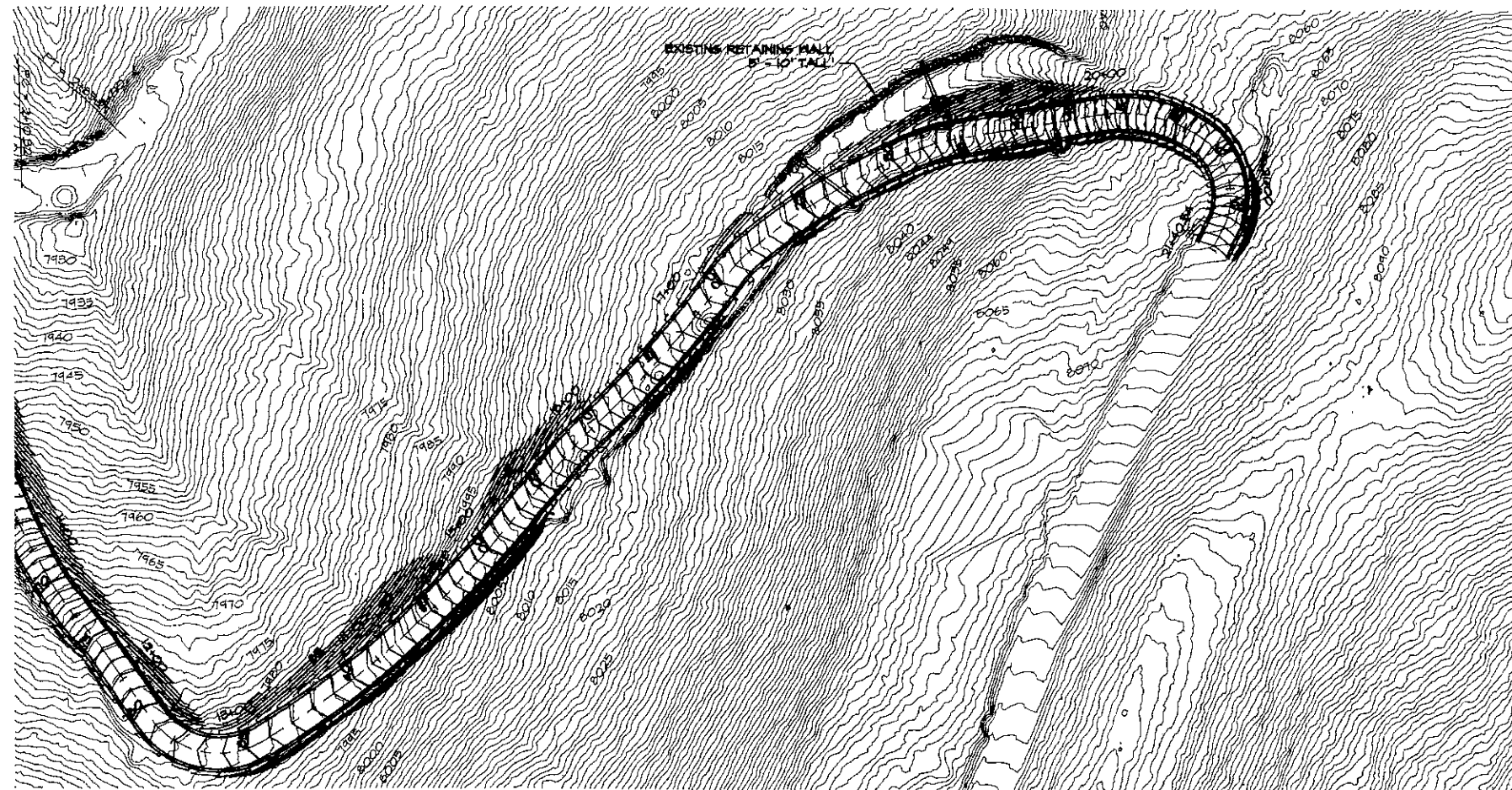
REVISIONS	
DATE	BY

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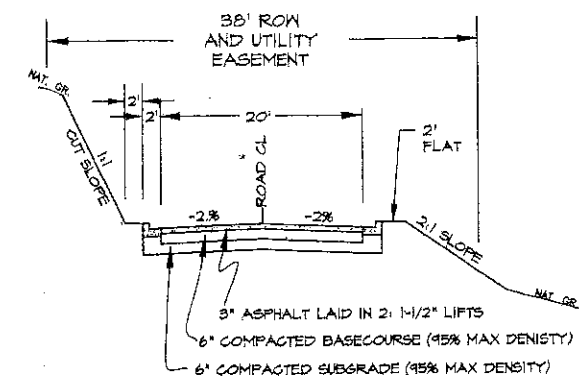
**DESIGN ENGINEER**

101 LUISA STREET, SUITE 2  
 SANTA FE, NEW MEXICO 87505  
 (505) 831-9991

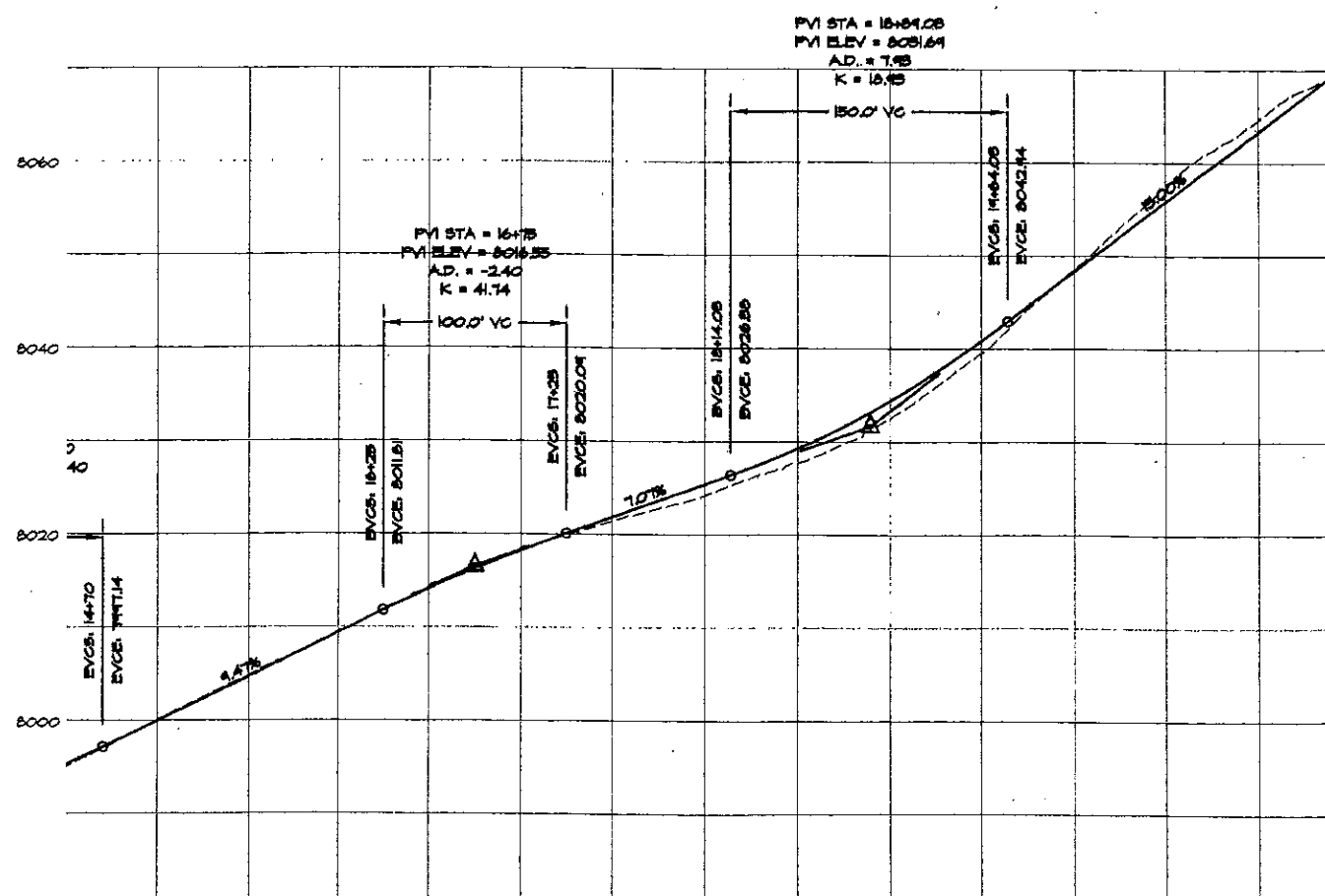
**HIGH SUMMIT III - PHASE 2**



### TYPICAL 20' WIDE ASPHALT ROAD SECTION



STEEPER CUT/FILL SLOPES ARE POSSIBLE IF ENGINEER CERTIFIES THEY ARE STABLE.



REVISIONS	
DATE	BY

NBA-29  
DESIGN ENGINEER

1801 LUISA STREET, SUITE 2  
SANTA FE, NEW MEXICO 87505  
(505) 941-3957

HIGH SUMMIT III - PHASE 2

Sustainable Land Development Code  
Hearing Officer Meeting  
October 26, 2017  
CASE NO. V17-5520  
Oreo LLC, Applicant

**RECOMMENDED DECISION AND ORDER**

**THIS MATTER** came before the Sustainable Land Development Code Hearing Officer for hearing on October 26, 2017, on the application of Oreo LLC, (Applicant) for a Variance of the Sustainable Land Development Code (SLDC). The Applicant seeks a variance of Chapter 7, Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow a (250) ft. section of South Summit Drive to exceed 9% grade and a variance of Chapter 7, Section 7.17.10.7.8 Screening Requirements to allow existing (14) ft. retaining walls to exceed the (5) ft. height limitation. The property is located within the Residential Community District (RES-C) at South Summit Drive, within Section 16, Township 17 North, Range 10 East (Commission District 4). 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 should be granted, and makes the following findings of fact and conclusions of law:

1. On July 28, 2017, the Applicant submitted its application for a variance of Chapter 7, Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow a (250) ft. section of South Summit Drive to exceed 9% grade and a variance of Chapter 7, Section 7.17.10.7.8 Screening Requirements to allow existing (14) ft. retaining walls to exceed the (5) ft. height limitation. The Applicant intends to complete infrastructure for High Summit III Phase 2.

2. As required by the SLDC, the Applicant presented the application to the



NBA - 30

Technical Advisory Committee (TAC) on July 7, 2017, 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.

3. 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 October 11, 2017. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on October 11, 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.

4. The Applicant states that High Summit III Phase 2 was approved by the BCC in 2003 and the road was rough graded, culverts were installed and all of the wet and dry utilities were installed around 2005-2009. The developer defaulted on loan obligations for the project and the project lingered for years in the bankruptcy court system. In early 2017, Oreo LLC purchased the property and intends to complete the project infrastructure.

5. The following SLDC provisions are applicable to this case:

A. Chapter 8, Section 8.6.7 Residential Community (RES-C) Purpose

The purpose of the Residential Community (RES-C) zoning district is to designate areas suitable for suburban-type residential development and other compatible uses. The RES-C district supports single-family homes on relatively small lots consistent with contemporary community development. Generally, this district applies to existing medium to higher density residential development in established neighborhoods (lands that are already committed to residential uses and have been subdivided for a specific development) and undeveloped or underdeveloped areas with a moderate to high development suitability. Density transfers and clustered development shall be allowed in order to support

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continued farming and/or ranching activities, conserve open space or protect scenic features and environmentally sensitive areas.

- B. Chapter 7, Table 7-13 Rural Road Classification and Design Standards (SDA-2 and SDA-3).

- C. 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.

- D. Chapter 4, Section 4.9.7.4, 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) based on 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.

- E. Chapter 4, Section 4.9.7.5 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 files a plat implementing the variance or

substantial construction of the building or structure authorized by the variance occurs within that time.

7. The Applicant and Staff have addressed the variance criteria for **Road Grade** as follows:

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

i. The Applicant stated that the request will have less impact to slopes and existing vegetative screening which benefits the public.

ii. Staff confirmed that existing roads within the subdivision are at approximately a 15% grade. High Summit III Phase 2 is well screened by native vegetation. The previous code (EZO) allowed road grades up to 15% in mountainous areas.

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. The Applicant stated that strict application of the Code would require the owner to rip out and truck in a substantial amount of dirt and go to great expense to lower the grade below grades in other parts of the development.

ii. Staff stated the utilities were installed to meet the road grade and ROW width at the time of installation. If the Applicant were required to rip out previously installed utility lines, at great expense, it would result in undue hardship with having to add large amounts of fill, relocating utility lines and disrupting service to existing lots.

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

i. The Applicant stated that it is requesting a minimal easing of the standards which will not increase intensity of use and will match other road grades in the project.

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CLERK  
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ii. Staff stated that there are other subdivision roads at grades up to 15%. Staff agrees that Applicant's request is a minimal easing of standards that won't increase intensity of use.

8. The Applicant and Staff have addressed the variance criteria for **Retaining Wall Height** as follows:

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

i. The Applicant stated that leaving the existing walls in place will have less impact to slopes and existing vegetative screening, which benefits the public.

ii. Staff stated that leaving the two 14 foot retaining walls would have less impact to the terrain and existing vegetation and would minimize grading and fill to the terrain.

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. The Applicant stated that it would otherwise be required to rip out an extensive number of trees and grade a steep slope to install smaller retaining walls, in essence burying the existing wall. The existing wall would not be removed, but a great more site disturbance would occur.

ii. Staff stated that existing large trees, shrubs and other existing vegetation currently screen the retaining walls. To modify the 14 ft. retaining walls, extensive grading and disturbance of slopes would have to occur, and a significant amount of vegetation including large trees and shrubs would have to be removed.

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

i. The Applicant stated that this is a minimal easing of the standards. The walls allowed the previous developer to leave more of the site in a natural condition, and the walls are invisible to all except those living within this phase of the project; therefore, the intensity of use is not increased and the grade matches other road grades in the project.

ii. Staff stated that the existing retaining walls are difficult to see from any other roadway with the exception of possibly anyone living within this phase of the project. Reducing the retaining wall height would require major disturbance to the surrounding terrain.

9. At the public hearing, Fred Siebel, President of the High Summit Homeowners Association, spoke in support of the variances; no one spoke in opposition to the application.

10. Based on the application and the evidence and testimony presented at the public hearing as described herein, the Hearing Officer finds there is sufficient evidence of extraordinary and exceptional conditions that would result in undue hardship to the Applicant from a strict application of the Code and that the Applicant has met the variance criteria of the SLDC.

**WHEREFORE**, the Hearing Officer, based on the evidence presented, recommends approval of a variance of Chapter 7, Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow a (250) ft. section of South Summit Drive to exceed 9% grade and a variance of Chapter 7, Section 7.17.10.7.8 Screening Requirements to allow the existing (14) ft. retaining walls to exceed the (5) ft. height limitation, subject to the following condition: an engineer will certify the structural integrity of the retaining walls and ensure that the retaining walls are properly permitted.

Respectfully submitted,

COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss

SLDC HEARING OFFICER 0  
PAGES: 7

I Hereby Certify That This Instrument Was Filed for  
Record On The 28TH Day Of November, 2017 at 08:55:16 AM  
And Was Duly Recorded as Instrument # **1842285**  
Of The Records Of Santa Fe County

Nancy R. Long  
Nancy R. Long  
Hearing Officer

Date: 11-15-17

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



SLDC HEARING OFFICER 0  
PAGES: 7  
11/28/2017

are living there now. I am just hoping that they approve all of these variances for me so I can get this started.

HEARING OFFICER LONG: Thank you, Mrs. Montoya. You say that you do not want to be required to place a meter on your well but that's one of the conditions that staff is recommending; would you be willing to do that if that allowed approval of your case?

MS. MONTOYA: I mean, I will do it. I'm hoping it doesn't cost a lot. I'm a single mom with my four boys and I'm still paying on the porch that I didn't need and I feel like I can't afford a lot extra. So I'm hoping it's not expensive.

HEARING OFFICER LONG: Understood. And then you had a pre-application meeting with neighbors; is that correct?

MS. MONTOYA: Yes, on September 11<sup>th</sup> we had a meeting in La Cienega which I sent a notice to all the neighbors within 500 feet of my property to attend. I had a couple of people call me and say they couldn't attend and one person did attend who stood by me, which I was glad. I sent out I think it was 30 some letters to all the people living around me on September 11<sup>th</sup> and I went in front of the Cienega Committee and I told them what I wanted to do and they said that they approved it. I have the letter from them, the minutes actually. I don't know if John got them, but I could give this to you.

HEARING OFFICER LONG: Yes, if you would give it to the recorder and we'll include it in the record. [Exhibit I] Thank you.

MS. MONTOYA: Is there anything else?

HEARING OFFICER LONG: No, I'll just wait to see if there is anyone else who wants to speak to this application. Thank you.

Is there anyone here this afternoon that would like to speak to this case one way or the other? And I will note for the record that there is no one that appeared to speak in regard to this case.

So Mrs. Montoya what I do is I make a recommendation in writing after this hearing today and I have two weeks to do that, approximately. And then it goes on to the Planning Commission and I think the date is in November; is that correct.

MR. LOVATO: Hearing Officer Long that is correct. It is November 16<sup>th</sup>.

HEARING OFFICER LONG: So you will receive communication as to when that meeting would be and then possibly on to the Board of County Commissioners for the plat amendment. Okay, thank you.

**B. Case # V17-5520 Oreo, LLC. Variance. Oreo, LLC., Applicant, Design Enginuity (Oralynn Guerrerortiz) Agent, request a variance to the requirements set forth in the Sustainable Land Development Code (SLDC) of Chapter 7, Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow a section of South Summit Drive to exceed 9 percent grade and a variance of Chapter 7, Section 7.17.10.7.8 Screening Requirements to allow existing 14 foot. retaining walls to exceed the 5 foot height limitation. The property is located within the Residential Community District (RES-C) at South Summit Drive, within Section 16, Township 17 North, Range 10 East, (Commission District 4)**

Hearing Officer Long read the case caption as written above and invited staff to present the report.

MIKE ROMERO: Good afternoon, Hearing Officer Long. The Applicant, Oreo, LLC is the owner of property at High Summit III Phase 2 as indicated by the warranty deed recorded in the records of the Santa Fe County Clerk on March 23, 2017, as Instrument No. 1821217. The Applicant, Oreo, LLC intends to complete infrastructure for High Summit III Phase 2. In order for the Applicant to complete this project, the Applicant is requesting a variance to the requirements set forth in the Sustainable Land Development Code of Chapter 7, Table 7-13: Rural Road Classification and Design Standards to allow a 250 foot section of South Summit Drive to exceed 9 percent grade and a variance of Chapter 7, Section 7.17.10.7.8 Screening Requirements to allow the existing, unpermitted 14 foot retaining walls to exceed the current 5 foot height limitation.

The property at High Summit III Phase 2, consist of 22 lots as indicated in Plat Book 812 Page 4 through 6 located within the Residential Community Zoning District. The property is accessed off South Summit Drive, which is identified as a private road and maintained through the High Summit Home Owners Association.

Recommendation: The applicant did provide responses to the variance review criteria. Staff recommends approval of a variance from Ordinance No. 2016-9 the Sustainable Land Development Code, Chapter 7, Table 7-13: Rural Road Classification and Design Standards to allow a 250 foot section of South Summit Drive to exceed 9 percent. If the applicant were required to rip out previously installed utility lines, which are currently being used by the subdivision, the applicant would be put through undue hardship by having to add large amounts of fill and having to relocate the utility lines and disrupt service to existing lots.

Existing large trees, shrubs and other existing vegetation, currently screen the retaining walls. If the Applicant were to modify those 14 foot retaining walls to the current SLDC requirements of 5 feet, extensive grading and disturbance of slopes would have to occur, and a significant amount of vegetation including large trees and shrubs would have to be removed. The existing retaining walls are difficult to see from any other roadway with the exception of possibly anyone living within the phase of the project. Reducing the retaining wall height would require major disturbance to the surrounding terrain. Accordingly, staff recommends approval of a variance of Chapter 7 Section 7.17.10.7.8 Screening Requirements to allow existing 14 foot retaining walls to exceed the 5 feet height limitation subject to the following condition. May I enter this condition into the record?

HEARING OFFICER LONG: Yes, you may.

MR. ROMERO: The condition would be:

1. An engineer will certify the structural integrity of the retaining walls and ensure that the retaining walls are properly permitted.
- I stand for any questions.

HEARING OFFICER LONG: Thank you very much. Let's get the applicant's agent up to the microphone.

[Duly sworn, Oralynn Guerrerortiz, testified as follows]

ORALYNN GUERRERORTIZ: I'm Oralynn Guerrerortiz with Design Enginuity and our mailing address is PO Box 2758, Santa Fe, New Mexico.

I don't have any comments. I just wanted to say we agree with staff conditions and look forward to moving on through this process. I'll stand for any questions.

HEARING OFFICER LONG: Thank you. How old are the retaining walls?

MS. GUERRERORTIZ: I'm guessing they were built around 2008 or 2009.

HEARING OFFICER LONG: And you don't think there will be any issue with their structural integrity, do you?

MS. GUERRERORTIZ: I don't believe so but there is, I will have to examine that in a lot more detail. We would just probably end up taking a couple of layers and battering it back a little more because it is quite vertical. But it's really hard to see things currently very clearly so it's something I am going to have to examine in a little more detail before I certify it.

HEARING OFFICER LONG: All right. So if it requires any what I would say shoring up to be able to certify the integrity that is something that you feel can be done with the existing wall where it is.

MS. GUERRERORTIZ: Yes, certainly. I am sure the material is adequate. It is material that we have used in other projects and we built taller walls with that same material. It's just a question of really examining the footings and so on and making sure it was done correctly.

HEARING OFFICER LONG: Okay, thank you.

MS. GUERRERORTIZ: You're welcome.

HEARING OFFICER LONG: Is there anyone here this afternoon that would like to speak to this case? Do I have one person or more than one? It's just one, you may come forward, sir.

[Duly sworn, Fred Seibel, testified as follows]

FRED SEIBEL: My name is Fred Seibel, 1135 South Summit Drive. I am the president of the High Summit HOA and I want to let you know since last time we were here, the HOA has indeed annexed the lots that are on that plat into our subdivision and we find that the terrain considerations and the clearing that would be required to achieve 5 foot step walls would, in fact, be quite deleterious to the overall appearance of our subdivision so we support these variances.

HEARING OFFICER LONG: Thank you and thank you for coming this afternoon to let me know that. All right, is there anyone else? Will that conclude this case and look for my recommended decision. Thank you all.

**C. Case #V17-5090 Fredance, LLC Variance, Fredance, LLC, Applicant, Sommer, Karnes and Associates (Joseph Karnes) Agent, request a variance to the requirements set forth in the Sustainable Land Development Code (SLDC) of Chapter 7, Table 7-13, Rural Road Classification and Design Standards to allow a road with a 30 ft. Right-of-Way rather than the required 50 ft. Right-of-Way for local roads. The property is located within the Rural Fringe Zoning District at 325 Glorieta Mesa Road, within Section 12, Township 15 North, Range 11 East (Commission District 4).**