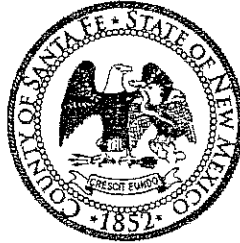


Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

**CASE NO. PCEV 18-5110
VACATION OF EASEMENT
ROXANE BECK**

ORDER

THIS MATTER came before Board of County Commissioners (BCC) pursuant to the Sustainable Land Development Code (SLDC), Chapter 5, Section 5.11.2 (Vacation of Approved Plats) for a hearing on June 12, 2018, on the application of Roxane Beck, (Applicant) for approval of a vacation a 25' ft. wide platted drainage easement on Lot 20 of the La Villa Escondida Subdivision Plat (Book 450 Page 037-039) totaling 3.04 acres. The BCC, having reviewed the application and supplemental materials, staff reports and having conducted a public hearing on the request, finds that the application is well-taken and should be granted subject to conditions, and makes the following findings of fact and conclusion of law:

1. The Applicant requests approval to vacate a 25' ft. platted drainage easement that runs across the northeast corner of the property on Lot 20 of the La Villa Escondida Subdivision. The Applicant's intent by vacating the drainage easement is to sell her home.
2. The property is located at 7 Hacienda Court (Lot 20), within Section 23, Township 17, Range 8 East, (Commission District 2).
3. The property is a lot created in 2000 through a subdivision plat, La Villa Escondida Subdivision and is recognized as a legal lot of record.

4. The Applicant acquired the real property as indicated by the warranty deed recorded in the records of the Santa Fe County Clerk on January 11, 2005, as Instrument No. 1362393.
5. 7 Hacienda Court (lot 20) has a single family residence on the property that was permitted by the Applicant as Permit No. 04-618. There are no other structures located on the property.
6. The drainage easement was created through a subdivision plat, La Villa Escondida Subdivision (Book 460 Page 037-039), which was recorded in the Santa Fe County Clerk's Office on November 17, 2000. The La Villa Escondida Subdivision Plat was approved by the Board of County Commissioners (BCC) and the Santa Fe County Land Use Administrator. The plat also reflects other drainage easements on separate properties that border the subject property to the north, northeast and northwest that tie into the easement located on the Applicant's property.
7. Prior to the hearing before the Commission, notice requirements of the SLDC were met pursuant to Chapter 4, Section 4.6.3., General Notice of Application Requiring a Public Hearing. In advance of the hearing on the application, the Applicant provided an affidavit of posting of notice of the hearing, confirming that public notice posting regarding the application was made for fifteen days on the Property, beginning on May 22, 2018. Additionally, notice of the hearing was published in the legal notice section of the Santa Fe New Mexican on May 22, 2018, as evidenced by a copy of that legal notice contained in the record. Notice of the hearing was sent to owners of land within 500' of the subject Property and a list of persons sent a mailing in contained in the record.

8. Chapter 5, Section 5.11.2. Vacation of Approved Plat.

5.11.2.1. Applicability. Any final plat filed in the Office of the County Clerk may be vacated, or a portion of the final plat may be vacated, if:

1. the owners of the land proposed to be vacated sign an acknowledged statement, declaring the final plat or a portion of the final plat to be vacated;
2. The statement is approved by the Board; and
3. if the plat, or portion of plat, to be vacated was initially approved through an administrative process, the Administrator may approve the vacation or partial vacation of the plat.

9. Chapter 7, Section 7.17.5.2. All Other Development. Subdivision, multi family, non-residential and single family residential development shall comply with the following standards:

1. Drainage structures shall be designed and sized to detain or safely retain storm water on site.
2. Storm drainage facilities shall have the sufficient carrying capacity to accept peak discharge runoff from the development.
3. The peak discharge of storm water resulting from the development shall not exceed the peak discharge calculated prior to the development and differences between pre- and post-development discharge shall be detained or retained on site. Calculation of the design peak discharge of storm water shall be based on a one hundred (100) year frequency, twenty-four (24) hour duration rainstorm.
4. No development shall disturb any existing watercourse or other natural drainage system, in a manner which causes a change in watercourse capacity or time to peak, time of concentration or lag time or other natural drainage system or increase of the pre-development storm water discharge.
5. All natural drainage ways and arroyos which traverse or affect one or more lots or development sites shall be identified on the plan and/or plat.
6. Erosion setbacks shall be provided for structures adjacent to natural arroyos, channels, or streams such that: (a) a minimum setback of 25' shall be provided from all arroyos with flow rates of 100 cubic feet per second (100 cfs); or (b) a minimum setback of 75' shall be provided from all FEMA designated 100 year Floodplains. Setbacks from FEMA designated Floodplains may be reduced if bank stabilization or stream bed and bank stability is designed or provided by a professional engineer. In no case shall the setback be reduced to less than 25'.

7. For single-family residences, where a proposed development site is located outside of a regulated one hundred (100) year flood plain and on slopes less than ten

percent (10%) and the proposed development site, including patios, garages, accessory structures, driveways and other development that decreases the permeability of infiltration of pre-development surfaces is no more than six thousand (6,000) square feet and total impermeable surfaces (roofs, paved areas, patios, etc.) do not exceed twenty-five hundred (2,500) square feet, a retention/detention pond(s) or check dams(s) with a minimum volume of six hundred (600) cubic feet shall be installed at a location to be approved by the Code Administrator. Such ponds shall be integrated with the landscaping or re-vegetation on the lot.

10. The Applicant has provided a Drainage Analysis, prepared by Morey Walker (Registered Professional Engineer) concluding that there is not any visible drainage ditch/arroyo within the drainage easement. The area around the house is very stable and no define drainage swales were noted. After reviewing the existing topo, the drainage area above the residence is minimal (< 1 acre.) No concentration of runoff was evident in the existing upstream drainage area. The existing house was adequately constructed to allow any minor offsite sheet flow drainage to be routed around the house. Given the foregoing, including the lack of either a historic or existing drainage easement is sheet flow only. A drainage easement should not be based upon sheet flow since there is not a concentration of discharge to make a drainage easement visible. The lack of a drainage ditch or arroyo within this easement should have been field verified and the easement should not have been shown on the recorded plat. The vacation of the 25' ft. wide drainage easement located on Lot 20, within the La Villa Escondida Subdivision will not have any detrimental effects on this lot or surrounding lots.

11. The BCC finds that the Drainage Analysis adequately demonstrates that there are no drainage ditches or arroyos within the easement and that there is not a concentration of discharge to make the easement necessary.

12. The President of the Salva Tierra Home Owner's Association (HOA) indicated in a

drainage easement and that the HOA has no objection to the vacation of the easement.

13. No member of the public spoke at the public hearing on this matter either in favor of or in opposition to the application.
14. The BCC finds that because the Drainage Analysis certifies that there is not a concentration of discharge through the easement the Partial Vacation will not adversely affect the interest of persons on contiguous land or person within the subdivision vacated.
15. Staff supports the application and recommends the following condition of approval:
16. The Applicant shall file the portion of the Final Plat (lot 20) affected by the vacated easement with the County Clerk's Office within 90 days of recording the order granting the vacation of easement or the approval will be null and void.
17. The Applicant has submitted an acknowledged statement, declaring the final plat or a portion of the final plat to be vacated.
18. The BCC finds that the Applicant's acknowledged statement satisfies the requirements of Chapter 5, Section 5.11.2.1.
19. The Applicant agreed with Staff's condition.

WHEREFORE the BCC finds the Application is well taken and hereby, by a vote of _____, approves the Applicant's acknowledged statement and requested vacation of a 25' ft. wide drainage easement that runs accords the northeast corner of Lot 20 of the La Villa Escondida Subdivision Plat (Book 460 Page 037-039), subject to the following condition:

1. The Applicant shall file the portion of the Final Plat (lot 20) affected by the vacated easement with the County Clerk's Office within 90 days of recording the order granting the vacation of easement or the approval will be null and void.

IT IS SO ORDERED.

This Order was adopted by the Board of County Commissioners on this ___ day of _____, 2018.

THE SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS

Anna Hansen, Chairperson

ATTEST:

Geraldine Salazar, County Clerk

APPROVED AS TO FORM:



R. Bruce Frederick, County Attorney

