



Agenda

DATE 4/23/14 TIME 1:30

SERVED BY [Signature]

RECEIVED BY [Signature]

SUMMARY COMMITTEE
Thursday, May 15, 2014 - 11:00 am
City Council Chambers
City Hall 1st Floor - 200 Lincoln Avenue

- A. ROLL CALL
- B. APPROVAL OF AGENDA
- C. APPROVAL OF MINUTES – April 3, 2014
- D. OLD BUSINESS
- E. NEW BUSINESS

1. **Case #2014-31. 1333 Nelson Loop Lot Split.** Philip B. Wiegel, Del Rio Surveys, Inc., agent for Javier F. and Angelica D. Dominguez, requests plat approval to divide approximately 2.59 acres into two residential lots. The property is zoned R-1 (Residential-1 dwelling unit per acre). (William Lamboy, Case Manager)
2. **Case #2014-35. 540 East Alameda Lot Split Rescission.** Rachel L. Winston, attorney, agent for Northington Properties LLC, 540 East Alameda LLC, and JSR Investments LLC, as Alameda Tenants-in-Common, requests that the Summary Committee rescind its lot split approval granted on December 4, 2008. The property is zoned RC-8/AC (Residential Compound-8 dwelling units per acre/Arts & Crafts Overlay District). (William Lamboy, Case Manager)

- F. STAFF COMMUNICATIONS
- G. MATTERS FROM THE COMMITTEE
- H. ADJOURNMENT

NOTES:

- 1) Procedures in front of the Summary Committee are governed by Roberts Rules of Order. Postponed cases are postponed 1) to a specific date, or 2) indefinitely until specific conditions have been resolved, or 3) to a specific date with the provisions that specific conditions be resolved prior to that date. Postponed cases can be removed from postponement by a motion and vote of the Summary Committee.
- 2) Due to time constraints not all issues may be heard and may be rescheduled to the next scheduled Summary Committee meeting. This agenda is subject to change at the discretion of the Summary Committee.
- 3) New Mexico law requires the following administrative procedures to be followed by zoning boards conducting "quasi-judicial" hearings. In "quasi-judicial" hearings before zoning boards, all witnesses must be sworn in, under oath, prior to testimony and be subject to cross examination. Witnesses have the right to have an attorney present at the hearing. The zoning board will, in its discretion, grant or deny requests to postpone hearings.

***Persons with disabilities in need of special accommodations or the hearing impaired needing an interpreter please contact the City Clerk's Office (955-6520) 5 days prior to the hearing date.**

SUMMARY INDEX
CITY OF SANTA FE
SUMMARY COMMITTEE
May 15, 2014

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
CALL TO ORDER/ROLL CALL	Quorum	1
APPROVAL OF AGENDA	Approved	1
APPROVAL OF MINUTES – APRIL 3, 2014	Approved [amended]	2
OLD BUSINESS	None	2
<u>NEW BUSINESS</u>		
<u>CASE #2014-31.</u> 1333 NELSON LOOP LOT SPLIT. PHILIP B. SIEGEL, DEL RIO SURVEYS, INC., AGENT FOR JAVIER F. AND ANGELICA D. DOMINGUEZ, REQUESTS PLAT APPROVAL TO DIVIDE APPROXIMATELY 2.59 ACRES INTO TWO RESIDENTIAL LOTS. THE PROPERTY IS ZONED R-1 (RESIDENTIAL – 1 DWELLING UNIT PER ACRE)	Approved w/corrections to Plat	2-4
<u>CASE #2014-35.</u> 540 EAST ALAMEDA LOT SPLIT RESCISSION. RACHEL L. WINSTON, ATTORNEY, AGENT FOR NORTHINGTON PROPERTIES, LLC, 540 EAST ALAMEDA LLC, AND JSR INVESTMENTS LLC, AS ALAMEDA TENANTS-IN-COMMON, REQUEST THAT THE SUMMARY COMMITTEE RESCIND ITS LOT SPLIT APPROVAL GRANTED ON DECEMBER 4, 2008. THE PROPERTY IS ZONED RC-8/AC (RESIDENTIAL COMPOUND – 8 DWELLING UNITS PER ACRE/ARTS & CRAFTS OVERLAY DISTRICT)	Approved	4-9
STAFF COMMUNICATIONS	None	9
MATTERS FROM THE COMMITTEE	None	9
ADJOURNMENT		10

**MINUTES OF THE MEETING
OF THE CITY OF SANTA FE
SUMMARY COMMITTEE
May 15, 2014**

A regular meeting of the City of Santa Fe Summary Committee, was called to order by Chair Michael Harris, on Thursday, May 15, 2014, at approximately 11:00 a.m., in the City Council Chambers, City Hall, Santa Fe, New Mexico.

A. ROLL CALL

MEMBERS PRESENT:

Michael Harris, Chair
Lawrence Ortiz
John Padilla

OTHERS PRESENT:

Zachary Shandler, Assistant City Attorney
Tamara Baer, Current Planning Division
William Lamboy, Current Planning Division
Melessia Helberg, Stenographer

There was a quorum of the membership in attendance for the conducting of official business.

B. APPROVAL OF AGENDA

MOTION: Commissioner Ortiz moved, seconded by Chair Harris, to approve the Agenda as submitted.

VOTE: The motion was approved on a voice vote, with Chair Harris and Commissioner Ortiz voting in favor of the motion, no one voting against and Commissioner Padilla absent for the vote..

C. APPROVAL OF MINUTES – APRIL 3, 2014

The following corrections were made to the minutes:

Page 10, last line on the page, correct as follows: “.... it’s kind of ~~had~~ hard to...”

Page 12 under Presentation, paragraph 1, line 2, correct as follows: “..Lynn ~~Grutnik~~
Krupnik....”

MOTION: Commissioner Ortiz moved, seconded by Chair Harris, to approve the minutes of the meeting of April 3, 2014, as amended.

VOTE: The motion was approved on a voice vote, with Chair Harris and Commissioner Ortiz voting in favor of the motion, no one voting against and Commissioner Padilla absent for the vote.

D. OLD BUSINESS

There was no Old Business.

E. NEW BUSINESS

1. **CASE #2014-31. 1333 NELSON LOOP LOT SPLIT. PHILIP B. SIEGEL, DEL RIO SURVEYS, INC., AGENT FOR JAVIER F. AND ANGELICA D. DOMINGUEZ, REQUESTS PLAT APPROVAL TO DIVIDE APPROXIMATELY 2.59 ACRES INTO TWO RESIDENTIAL LOTS. THE PROPERTY IS ZONED R-1 (RESIDENTIAL – 1 DWELLING UNIT PER ACRE). (WILLIAM LAMBOY, CASE MANAGER).**

A Memorandum prepared April 21, 2014, for the Summary Committee Meeting of May 1, 2014, with attachments, to the Summary Committee, from William Lamboy, Senior Planner, Current Planning Division, is incorporated herewith to these minutes as Exhibit “1.”

Staff Report

The staff report was presented by William Lamboy, Current Planning Division, which is contained in Exhibit “1.” Please see Exhibit “1” for specifics of this presentation.

Recommendation: The Land Use Department recommends approval with the conditions of approval as outlined in the Staff Report [Exhibit "1"].

Public Hearing

Danny Valdez, Del Rio Surveys, Inc., agent for the owner, was sworn. Mr. Valdez said he has no comment.

Chair Harris asked Mr. Valdez if he and the Applicant understand the conditions of approval that are being imposed.

Mr. Valdez said yes.

Chair Harris asked Mr. Valdez if he and the Applicant accept the conditions being imposed, and Mr. Valdez said yes.

Speaking to the Request

There was no one speaking for or against this request.

The Public Testimony Portion of the Public Hearing was closed

Commissioner Ortiz said he has no questions.

Chair Harris noted corrections on the Plat, on the notes and conditions, noting "the fourth from the bottom, references Lot A-B-2B, so that should be obviously corrected and should be Lot 4-B-2B. And Alameda is misspelled in any case on the Plat, and you'll pick that up Mr. Sanchez I am sure."

Ms. Helberg clarified that both corrections are on the Plat, and Chair Harris said yes.

Chair Harris said, "My comment on the typos speaks to the most important condition to be understood by the Applicant is that there is no direct access onto West Alameda."

Mr. Valdez said this is correct.

Chair Harris said there will be no additional curb cutting and it will be through the existing 38 foot access easement, and Mr. Valdez said this is correct

MOTION: Commissioner Ortiz moved, seconded by Chair Harris, to approve Case #2014-31, 1333 Nelson Loop Lot Split, with all conditions of approval as outlined in the Staff Report [Exhibit "1"], and with the corrections to the plat made by Chair Harris.

VOTE: The motion was approved unanimously on a voice vote.

2. **CASE #2014-35. 540 EAST ALAMEDA LOT SPLIT RESCISSION. RACHEL L. WINSTON, ATTORNEY, AGENT FOR NORTHINGTON PROPERTIES, LLC, 540 EAST ALAMEDA LLC, AND JSR INVESTMENTS LLC, AS ALAMEDA TENANTS-IN-COMMON, REQUEST THAT THE SUMMARY COMMITTEE RESCIND ITS LOT SPLIT APPROVAL GRANTED ON DECEMBER 4, 2008. THE PROPERTY IS ZONED RC-8/AC (RESIDENTIAL COMPOUND – 8 DWELLING UNITS PER ACRE/ARTS & CRAFTS OVERLAY DISTRICT). (WILLIAM LAMBOY, CASE MANAGER).**

A Memorandum prepared April 21, 2014 for the Summary Committee Meeting of May 15, 2014, with attachments, to the Summary Committee, from William Lamboy, Senior Planner, Current Planning Division, is incorporated herewith to these minutes as Exhibit "2 ."

A copy of *Property Owner Information*, with attachments, entered for the record by Rachel Winston, is incorporated herewith to these minutes as Exhibit "3."

Staff Report

The staff report was presented by William Lamboy, Current Planning Division. Please see Exhibit "2" for specifics of this presentation.

Recommendation: The Land Use Department recommends approval.

Public Hearing

Rachel Winston, Attorney, Agent for Northington Properties, LLC, The Winston Firm, 508 W. Cordova Road, was sworn. Ms Winston said she is here today with John Patterson of the Rodey Law Firm, to request the rescission of the previously approved lot split.

Ms. Winston said, "Before I begin, I would like to briefly speak to the handouts I gave you today [Exhibit "3"]. My apologies. I'm on the Board of Adjustment and we get last minute pieces of paper and I understand that's not very common with respect to the Summary Committee. I gave

you the top sheet. It just gives you the name of every entity or individual with a property interest within the boundary of this condominium. The subsequent two pages are letters of support for the rescission from the Condominium Association, representing the units listed at the bottom of the page. I also have a separate letter of support from the attorney for the owners of Unit 7B, and then the remaining owners are the applicants through a tenant in common group that are requesting the rescission on behalf of everyone else. Having said that, I am happy to answer any questions you may have."

Speaking to the Request

Noelle Bennett, 522 E. Alameda was sworn. Ms. Bennett said she really has nothing to add and would like clarification, noting they just got notice of the hearing in the mail and they are not clear of what's going on and just wanted to get clarification.

The Public Testimony Portion of the Public Hearing was closed

Commissioner Ortiz said he would like more information from Mr. Patterson, some background information.

Chair Harris said, and if I could add, and what is being proposed right now to make sure we understand.

John Patterson, attorney, [previously sworn] said, "In 2008 when Mr. Northington applied for a lot split to match a right of withdrawal, which had been reserved in the condominium declaration for this project, it would have allowed him to withdraw from the condominium, the, I call it the front half, the northern about one-third, I guess, of the property which contained an original house and a guest house. What is being proposed now is to rescind that lot split. The result would be that the front part of the lot again becomes legally part of a single parcel which houses this condominium project. The reason it is phrased as it is, as a rescission, is that the right to withdraw property, was jointly owned by about 5 different parties. And it has come to light since, after 2008, that the other parties who are owners of the right to withdraw, had not agreed or granted to Mr. Northington any authority on their behalf to seek this lot split. The development right to withdraw, the owners have decided, is not something they wish to exercise, in any event. It will be terminated upon the approval of this rescission, if this Committee grants it, and this parcel of land will continue to be an integral part of the condominium project that is built at that location."

Commissioner Padilla arrived at the meeting.

Chair Harris said, "Then there are reserve development rights for 7A, correct."

Mr. Patterson said, "There is a reserved right to create 7A, and that doesn't change."

Chair Harris said, "So this parcel, whether it is a lot split or the lot split is rescinded, one more unit can be built on the property."

Mr. Patterson said this is correct.

Chair Harris said he wants to make sure that is understood.

Chair Harris said, "I would like to ask Mr. Shandler, because there was a lot of discussion. I looked at the minutes from 2008, yourself and Ms. Brennan, everything seemed to be fairly well understood. Are there any issues for the City, Mr. Shandler as a result of this rescission. Is there any impact or dispute that could derive out of this."

Mr. Shandler said, "The City Attorney's Office has looked at this, and we don't foresee any problems."

Chair Harris said, "These things happen. Is it necessary to try and implement anything to avoid this type of situation in the future. I don't know if that's something that can be crafted, or is even necessary. These seem to occur, but again, Mr. Shandler is there a lesson learned here for the City."

Mr. Shandler said, "Mr. Chairman, I don't think there's a lesson learned for this particular case. I think counsel of record that is here have laid out the pattern of events, and why things need to be here today."

Chair Harris said, "So the conditions that were attached previously, as much as anything, I think the one I remember had to do with improvements to the access easement at time of issuance of building permit. Is that your understanding, Ms. Baer."

Ms. Baer said, "I'm sorry, I don't recall that. If it's in the packet, I'm happy to review it."

Chair Harris said, "As much as anything, I wondered about the property behind. If there are any issues related to the property behind, which potentially has greater development that needs to be discussed at this time."

Mr. Baer said, "There are two vacant lots that are owned by Virginia Dwan that are also accessed by the same easement. Originally, this was one large parcel out of which the current condominium was carved. At the time that the condominium went forward, that access easement was created in order to secure access to both the rear of this property, the condominium property, as well as vacant parcels owned by Ms. Dwan, and that condition remains in effect. If and when those two rear parcels are developed, that access will have to be provided."

Chair Harris said, "We have a 20 foot access, the minimum width for the Fire Department. I don't think, in that neighborhood, the grade is at issue. That's what I wanted to understand. The improvements to that access potentially will be driven by exercising of the development right to create 7A as well as the property behind."

Ms. Baer said, "The condition on the plat, and I believe this is carried over from the prior Plat, states that, 'Prior to any new construction, a fire and access easement road per the Fire Code Standards shall be provided, including the turn-around'."

Chair Harris said, "Right. Again, but does that apply to the property behind as well as potentially the development of 7A."

Ms. Baer said, "I believe it applies almost entirely to the properties behind."

Mr. Patterson said, "It's really to the property to the east, isn't it."

Ms. Baer said yes.

Mr. Patterson said, "It's really not to the south of this thing. It's not a parcel."

Ms. Baer said, "Well, yes."

Chair Harris said, "The conditions that were agreed to as part of the lot split, still run with this rescission."

Ms. Baer said, "One the lot split approval is rescinded, then there would be no conditions attached to the rescission, other than what are shown on this current Plat. Yes."

Rachel Winston said, "So if you look at Note #10, which is on the current Plat that pre-existed the lot split and addresses that issue. For what it's worth, as well, I did want to let you know we have heard from Virginia Dwan's attorney and she does not object to this proposed rescission."

Chair Harris asked if each of the units are served by separate sewer and water.

Mr. Patterson said, "I believe that that's correct."

Chair Harris said, "I mean it says, shall be."

Chair Harris said he has no more questions.

Chair Harris asked Ms. Bennett to step forward. He said, "So again, you said that you had just heard about this recently, you saw the notice, however that came about. Do you understand what is being proposed here."

Ms. Bennett said, "Not really."

Chair Harris said, "A lot split was approved by this body two years ago, didn't really involve any new construction at that time, any changes to what was there, necessarily, I'm thinking in terms of buildings now. And, for whatever reasons, it was not appropriate for that lot split to occur. So now, instead of having two lots on that property, you are going to go back and just have one single lot. Okay."

Ms. Bennett asked, "And the implications for new construction are what."

Chair Harris said, "At the time there was what is called a reserve development right to create one new building structure on the property, and that still is allowed. So that doesn't change at all. But in terms of access and utilities, everything else remains the same."

Ms. Bennett said, "And I'm assuming that's on that piece of land that is to the east, as John Patterson pointed out, and *[inaudible]*."

Ms. Baer said, "I would be happy to give Ms. Bennett this copy of the staff report and the proposed Plat, and then she would have more information, more specific information for her perusal. The reserve development right parcel is for 7A, which would have been on the front piece."

Chair Harris said, "And I should say, at the time that somebody chooses to exercise that development right they will have to come back to the City for building permit, and there will be a lot of discussion about the height and all the things you would normally expect."

Chair Harris said, "I'm big on spell check. Make sure they have tenant instead of tenet."

Commissioner Padilla asked, "In reference specifically to the easement that is being dedicated or has been dedicated, can you clarify as to why it is a 25 foot easement, and then chokes down to a 20 foot easement, when I think the minimum drive requirement by Fire is 16 feet on this case, or 20 feet. So the right-of-way that goes from almost the middle of this upper part, I guess Ms. Dwan's property. It's 20 feet on the subject property now and then 10 feet on Ms. Dwan's property, so it's only a 20 foot wide easement. Is there any reason why it is shown that way."

Mr. Baer said, "This was done prior to 2008 and was already in place. I can't answer that. It would have been the previous Fire Marshal who made that condition. I would think that's a minimum holding reserved easement. And if, for example, the Dwan property were to develop with several units, that may be expanded in the future. But since it's vacant and has remained vacant, this was deemed sufficient for the current development. That's typically what they base their requirements on."

Commissioner Padilla said he has no further questions.

Commissioner Ortiz said he has no further questions.

MOTION: Commissioner Ortiz moved, seconded by Commissioner Padilla, to approve Case #2014-35, 540 East Alameda Lot Split Rescission.

VOTE: The motion was approved unanimously on a voice vote.

F. STAFF COMMUNICATIONS

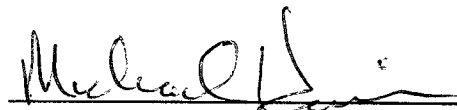
There were no staff communications.

G. MATTERS FROM THE COMMITTEE

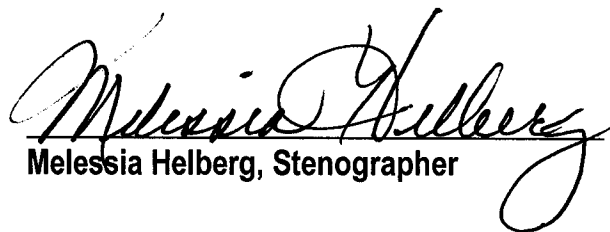
There were no matters from the Committee.

H. ADJOURNMENT

There was no further business to come before the Committee, and the meeting was adjourned at approximately 11:30 a.m.



Michael Harris, Chair



Melessia Helberg, Stenographer

City of Santa Fe, New Mexico

memo

DATE: April 21, 2014, for the May 1, 2014 Meeting

TO: Summary Committee

VIA: Matthew S. O'Reilly, P.E., Director, Land Use Department *MSO*
Tamara Baer, ASLA, Planning Manager, Current Planning Division *TB*

FROM: William Lamboy, AICP, Senior Planner, Current Planning Division *W. Lamboy*

1333 NELSON LOOP LOT SPLIT

Case #2014-31. **1333 Nelson Loop Lot Split.** Philip B. Wiegel, Del Rio Surveys, Inc., agent for Javier F. and Angelica D. Dominguez, requests plat approval to divide approximately 2.59 acres into two residential lots. The property is zoned R-1 (Residential-1 dwelling unit per acre). (William Lamboy, Case Manager)

RECOMMENDATION

The Land Use Department recommends **Approval** with the Conditions of Approval as outlined in this report.

BACKGROUND & SUMMARY

The proposed land division would create two lots: Lot 4-b-2A, 1333 Nelson Loop, containing approximately 1.59 acres; and Lot 4-B-2b, 1331 Nelson Loop, 1.00 acres. Lot 4-B-2a is developed with a residential structure. Lot 4-B-2b is vacant.

The property located off West Alameda Street is accessed directly from Nelson Loop, a private, unimproved roadway with a 38-foot right-of-way. The property, annexed into the City in January 2014, is not accessible to City utilities. Prior to any new construction on the lot, the owner will be required to obtain a septic system permit from the State of New Mexico Environment Department. Prior to any new construction on Lot 4-B-2b, the owner shall obtain a well permit from the New Mexico State Engineer.

Exhibit "1"

CONDITIONS OF APPROVAL

Any staff conditions noted in the attached memoranda and not listed in the recommended conditions of approval have already been addressed on the plat.

Following standard practice, redline comments will be provided to the surveyor who shall make any necessary changes and submit the corrected plat in Mylar.

Staff recommends the following conditions of approval:

1. Show and label easement from shared well in adjoining Lot 4-B-1 to Lot 4-B-2-a.
2. Add the following notes to the plat:
 - a. Water and septic for Lot 4-B-2b shall be provided at the time of building permit application.

ATTACHMENTS:

EXHIBIT A: City Staff Memoranda

1. Fire Marshall Memorandum, Reynaldo Gonzales
2. Waste Water Division Engineer Memorandum, Stan Holland

EXHIBIT B: Maps

1. Aerial View
2. Current Plat

EXHIBIT C: Applicant Materials

1. Letter of Application

EXHIBIT D: Photographs

City of Santa Fe, New Mexico

Exhibit A


City Staff Memoranda

City of Santa Fe, New Mexico

memo

DATE: April 12, 2014

TO: William Lamboy , Case Manager

FROM: Reynaldo Gonzales, Fire Marshal 

SUBJECT: Case #2014-131 1333 Nelson Loop Lot Split

I have conducted a review of the above mentioned case for compliance with the International Fire Code (IFC) Edition. If you have questions or concerns, or need further clarification please call me at 505-955-3316.

Prior to any new construction these requirements must be met:

1. All Fire Department access shall be no greater than a 10% grade throughout and maintain 20' min. width.
2. Fire Department Access shall not be less than 20 feet width to any new construction.
3. Shall meet driveway requirements as per IFC.
4. Fire Department shall have 150 feet distance to any portion of the building on any new construction.
5. Shall have water supply that meets fire flow requirements as per IFC or install an automatic sprinkler system.(includes shall meet distance to fire hydrant)

City of Santa Fe, New Mexico

memo

DATE: March 31, 2014
TO: William Lamboy, Case Manager
FROM: Stan Holland, Engineer, Wastewater Division
SUBJECT: Case #2014-31 – 1333 Nelson Loop Lot Split

The subject property is not accessible to the City public sewer system. Prior to any new construction on the lot, the owner shall obtain a septic system permit from the State of New Mexico Environment Department.

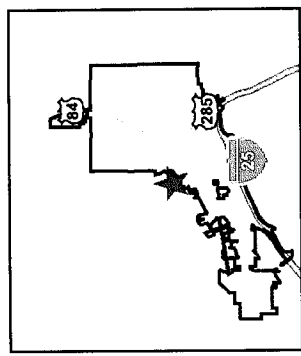
The Applicant shall add the following note to the plat:



















1. Connection to the City public sewer system is mandatory when the property is in the City limits and is being developed or improved is accessible to the City sewer system. Prior to the development or improvement of the property, owners and developers of the property shall obtain a technical sewer evaluation review by the City of Santa Fe Wastewater Division.

City of Santa Fe, New Mexico

Exhibit B

Maps

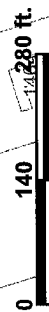


- | City Limits | |
|---|--|
|  | Parcels |
|  | Airport Clear Zones |
|  | Neighborhood Associations |
| Zoning | |
|  | RR Rural Residential |
|  | R1, (PUD) Single- Family 1du/ac. |
|  | R2, (DT), (PUD), (AC) Single - Family 2du/ac |
|  | R3, (PUD) Single - Family 3du/ac |
|  | R4 Single - Family 4du/ac |
|  | R5, (DT), (PUD), (AC), R6 Single - Family 5du/ac |
|  | R7, (I), (PUD), R8 Single - Family 7-8du/ac |
|  | RC5, RC5AC Compound 5du/ac |
|  | RC8, RC8AC Compound 8du/ac |
|  | R10, (PUD) Multiple - Family 10du/ac |
|  | R12, (PUD) Multiple - Family 12du/ac |
|  | R21, (PUD) Multiple - Family 21du/ac |
|  | R29, (PUD), (AC) Multiple - Family 29du/ac |
|  | RAC Residential Arts & Crafts |
|  | MHP Mobile Home Park |

Scale: 1:2,447

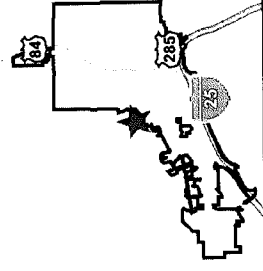


Map center: 1715753, 1699258



This map is a user-generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

1333 Nelson Loop - 2011 Aerial



- Legend**
- City Limits
 - Wastewater Collection Pipelines
 - Water Pipe Distribution
 - Parcels
 - Airport Clear Zones
 - Neighborhood Associations
 - FEMA Floodplain December 4, 2012 (100 yr)
 - Other Roads and Streets
 - 2011 Aerial Photography - 1 foot resolution



Scale: 1:2,276

This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

City of Santa Fe, New Mexico

Exhibit C

Applicant Materials

PO Box 22773
Santa Fe, NM 87502



Email: drs-surveys@qwestoffice.net
(505) 820-9200
Fax: (505) 820-1600

March 24, 2014

City of Santa Fe Planning and Land Use Department
Attn: Mr. Bill Lamboy
PO Box 909
Santa Fe, NM 87504 - 0909

SUBJECT: PROPOSED LOT SPLIT FOR JAVIER F. DOMINGUEZ AND ANGELICA D. DOMINGUEZ, 1333 NELSON LOOP, CREATING LOTS 4-B-2a and 4-B-2b FROM LOT 4-B-2, CITY OF SANTA FE, NEW MEXICO, SANTA FE COUNTY, NEW MEXICO.

Dear Mr. Lamboy:

This letter is a formal request for a lot split on the above-referenced property.

The proposed request is for review and approval to split a parcel of land designated as lot 4-B-2, recorded as Instrument No. 1574434, records of Santa Fe, County, New Mexico, into two parcels designated Lot 4-B-2a and Lot 4-B-2b as proposed on the attached "Plat of Land Division for Javier F. Dominguez and Angelica D. Dominguez".

Attached please find:

- Lot Split Application
- Filing Fee
- 3 (24" x 36") copies of the proposed plat
- Legal lot of record documentation

If you have further questions regarding this matter, please do not hesitate to contact me or BernaDette Sanchez-Wiegel at the above-referenced number.

Sincerely,

Philip B. Wiegel
NMPS No. 9758

Cc: Project File 14020058

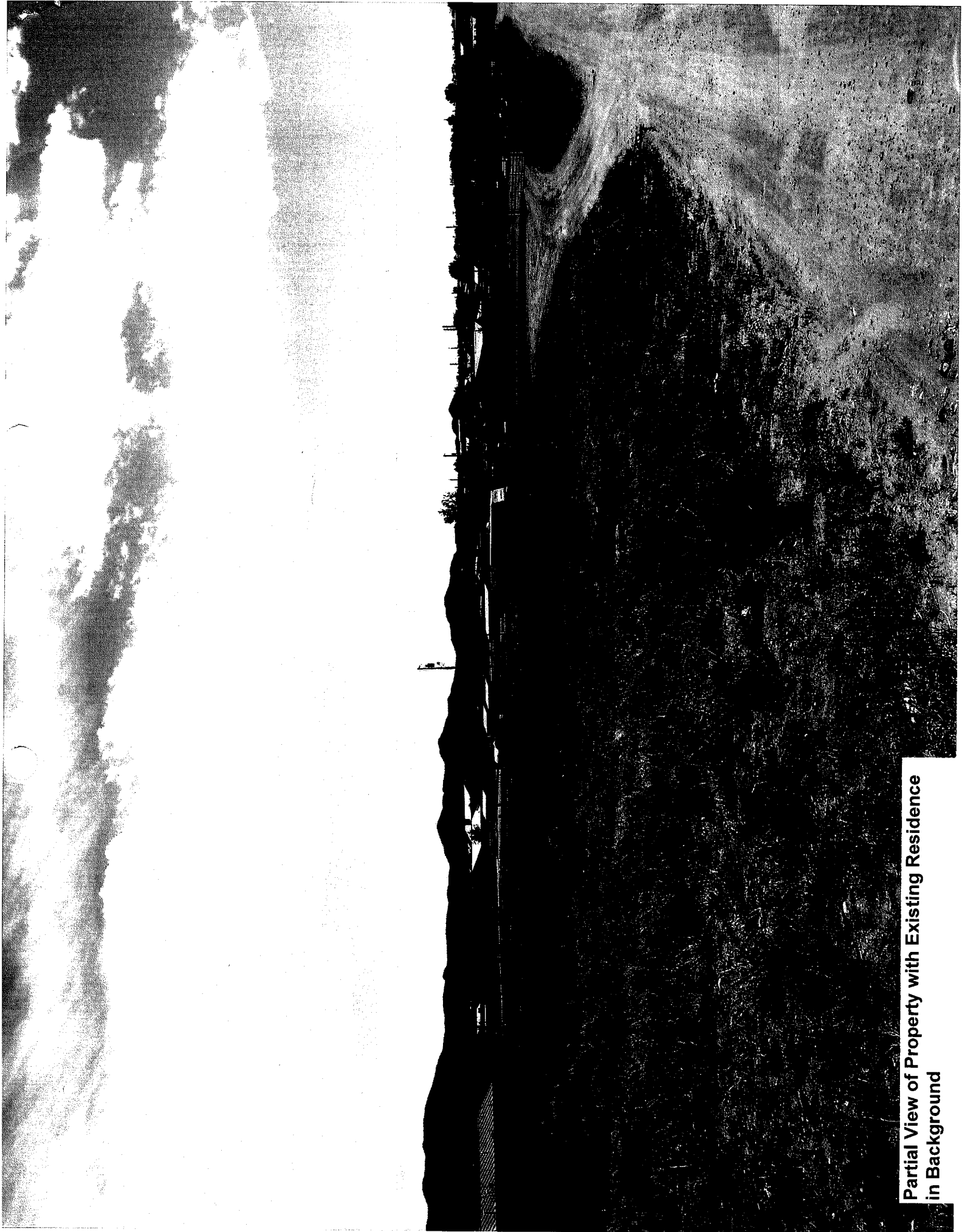
City of Santa Fe, New Mexico

Exhibit D

Photographs

View along Nelson Loop towards Alameda





Partial View of Property with Existing Residence
in Background

City of Santa Fe, New Mexico

memo

DATE: April 21, 2014, for the May 1, 2014 Meeting

TO: Summary Committee

VIA: Matthew S. O'Reilly, P.E., Director, Land Use Department *Mso*
Tamara Baer, ASLA, Planning Manager, Current Planning Division *TB*

FROM: William Lamboy, AICP, Senior Planner, Current Planning Division *W.L.*

540 EAST ALAMEDA LOT SPLIT RESCISSION

Case #2014-35. 540 East Alameda Lot Split Rescission. Rachel L. Winston, attorney, agent for Northington Properties LLC, 540 East Alameda LLC, and JSR Investments LLC, as Alameda Tenants-in-Common, requests that the Summary Committee rescind its lot split approval granted on December 4, 2008. The property is zoned RC-8/AC (Residential Compound-8 dwelling units per acre/Arts & Crafts Overlay District). (William Lamboy, Case Manager)

RECOMMENDATION

The Land Use Department recommends **Approval**.

BACKGROUND & SUMMARY

The property is zoned RC-8/AC (Residential Compound-8 dwelling units per acre) with an Arts & Crafts District Overlay. The proposed rescission would vacate the approved plat and consolidate Tracts B-2-1 and B-2-2 into one: Tract B-2. The property is developed with 9 residential units. In addition, reserved development rights exist for a 10th unit. (Refer to letter from applicant, **Exhibit C**).

The Summary Committee approved the request for a lot split, (Case #2008-21), on December 4, 2008. The lot split plat was recorded with the Santa Fe County Clerk on October 1, 2009. Following recordation of the plat, it was learned that the applicant was not authorized by the Condominium to pursue Summary Committee approval for the lot split. A complete and legal explanation of the situation is

Exhibit "2"

provided by Attorney Rachel Winston in her letter of March 29, 2014 and attached as **Exhibit B**. The City Attorney's office has verified the application and concurs with the recommendation to rescind the prior approval. The lot split request (Case #2008-21) was processed and approved in accordance with City established procedures outlined in Chapter 14. The request for the lot split was reviewed and approved by the Summary Committee and consequently, action by the Summary Committee is required to rescind the original approval and permit consolidation of the lots.

The property is accessed directly from Alameda Street, a City maintained roadway, and is accessible to City utilities.

CONDITIONS OF APPROVAL

Any staff conditions noted in the attached memoranda and not listed in the recommended conditions of approval have already been addressed on the plat.

Following standard practice, redline comments will be provided to the surveyor who shall make any necessary changes and submit the corrected plat in Mylar.

There are no further conditions of approval.

ATTACHMENTS:

EXHIBIT A: Maps

1. Aerial View
2. Current Plat

EXHIBIT B: Applicant Materials

1. Letter of Application
2. Statement of Zoning Compliance
3. Title History for Lot B-2-1

EXHIBIT C: Case 2008-21 Development Review Application

EXHIBIT D: Case 2008-21 Staff Reports & Minutes

EXHIBIT E: Photographs

City of Santa Fe, New Mexico

Exhibit A

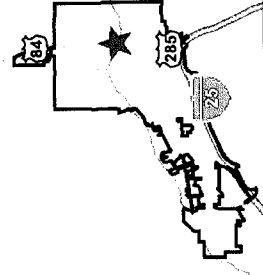
MAPS



540 East Alameda Street - 2011 Aerial



This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.



Legend

- City Limits
- Address Points
- Parcels
- Airport Clear Zones
- Santa Fe River
- Major Roads and Highways
- Other Roads and Streets
- 2011 Aerial Photography - 1 foot resolution
- 2008 Aerial Photography - 6 inch resolution



Scale: 1:1,700

City of Santa Fe, New Mexico

Exhibit B
APPLICANT MATERIALS

THE WINSTON FIRM

A PROFESSIONAL CORPORATION

508 WEST CORDOVA ROAD
SANTA FE, NM 87505
505-819-3731 (OFFICE)

RACHEL L. WINSTON, ESQ.

RACHEL@THEWINSTONFIRM.COM
WWW.THEWINSTONFIRM.COM
866-511-6686 (FAX)

March 29, 2014

Tamara Baer, Planning Manager
Land Use Department
City of Santa Fe
200 Lincoln Avenue
P.O. Box 909
Santa Fe, NM 87504

**Re: *Proposed Vacation of Lot Split for 540 East Alameda Condominium;
Zoning Designation RC-8.***

Dear Ms. Baer:

Submitted for review is the proposed vacation of the Plat of Lot Split for 540 East Alameda Compound Condominium ("Condominium") located at 540 East Alameda, Santa Fe County, New Mexico, which was heard before the Summary Committee on November 6, 2008, approved on December 4, 2008, and filed in the Santa Fe County records, on October 1, 2009, as Instrument No. 1578941, by Tracy Northington, allegedly acting as agent of the holder of the statutory right to withdraw land from East Alameda Compound ("Lot Split Plat"). Due to the filing error described below, it is our legal opinion that the lot split was *void ab initio*.

Unauthorized Lot Split

Subsequent to the filing of the Lot Split Plat, it has come to our attention that Mr. Northington did not have proper authorization from the owners¹ of the development right to withdraw land from the Condominium to seek a lot split on their behalf. Mr. Northington therefore both sought lot split approval from the Summary Committee and filed the Lot Split Plat (attached as Exhibit A), in error.

The aforementioned filing error was not due to any action or inaction on the part of the City of Santa Fe during its approval process, but rather was caused by the failure of applicant Northington Properties, LLC, acting by and through Tracy Northington, its Managing Member, to disclose to

¹ The development right to withdraw land from the Condominium is held by a tenancy-in-common with the following respective interests: 540 East Alameda, LLC, a New Mexico limited liability company as to an undivided 40% interest; Northington Properties, LLC, a New Mexico limited liability company as to an undivided 40% interest; and JSR Investments LLC, a New Mexico limited liability company as to an undivided 20% interest (hereinafter, collectively: "Tenants in Common" or "TIC").

Tamara Baer
March 29, 2014
Page 2 of 2

applicant agent David Cooper (Sierra Land Surveying Inc.), legal counsel, and the City that he had acted outside the scope of his authority by failing to obtain the proper authorization from the members of the TIC prior to applying for the lot split.

We believe vacation of the Lot Split Plat (draft attached as Exhibit B) represents the simplest and most accurate method of addressing Mr. Northington's lack of agency authority. Vacation of the Lot Split Plat will also bring the property in line with the existing boundaries of the Condominium recorded with the original Declaration, as described below.

Condominium Boundaries

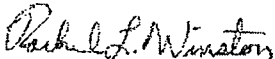
In order for the Lot Split Plat to have legal effect with respect to redefining the existing boundaries of the Condominium, an amendment to the Condominium Declaration for East Alameda Compound Condominium (filed for record in the office of the County Clerk of Santa Fe County, New Mexico on October 27, 2004, as Instrument No. 1352245), must be recorded, pursuant to Section 47-7B-10 of the Condominium Act [47-7A-1 to 47-7D-20 NMSA 1978].² No such amendment to the Declaration was ever recorded because at no time did the TIC authorize Mr. Northington to withdraw the land from the boundary of the Condominium.

By the act of vacating the Lot Split Plat, the original boundaries of the Condominium, encompassing the entirety of Tract B-2, will remain unchanged, bringing the City's official lot records into conformance with the boundaries established by the recorded Declaration, as shown on the draft Replat attached hereto as Exhibit C.

None of the owners of the real property or the holders of the unexercised development rights situated on Tract B-2-1 and Tract B-2-2 objects to the proposed vacation of Lot Split Plat which we believe is the most accurate means of rectifying Mr. Northington's lack of agency authority.

Please do not hesitate to contact either John Patterson or myself should you or members of the Summary Committee have any questions.

Sincerely,



Rachel L. Winston
The Winston Firm, P.C.

John N. Patterson
Rodey Law Firm

Encl. Application; Zoning Statement; 3 copies each of: Pre-Lot Split Plat; Lot Split Plat; proposed Vacation of Lot Split Plat; and proposed Replat; check for \$280.00.

² To exercise any development right reserved under Paragraph (8) of Subsection A of Section 17 [47-7B-5 NMSA 1978] of the Condominium Act, the [holder of such rights] shall prepare, execute and record an amendment to the declaration and comply with Section 21 [47-7B-9 NMSA 1978] of the Condominium Act.

THE WINSTON FIRM

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RACHEL L. WINSTON, ESQ.

RACHEL@THEWINSTONFIRM.COM
WWW.THEWINSTONFIRM.COM
866-511-6686 (FAX)

March 29, 2014

Tamara Baer, Planning Manager
Land Use Department
City of Santa Fe
200 Lincoln Avenue
P.O. Box 909
Santa Fe, NM 87504

Re: *Statement of Zoning Compliance for Proposed Vacation of Lot Split for 540 East Alameda Condominium; Zoning Designation RC-8.*

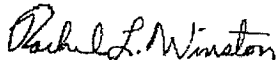
Dear Ms. Baer:

The property is located in a Residential Compound-8 (RC-8) District allowing eight units per acre. The property is also located in an Arts and Crafts (AC) overlay district and is in the Downtown Historic District.

The density allowed for the original condominium project is $8 \times 1.7147 \text{ acres} = 13$ dwelling units. Presently, there are nine dwelling units, with seven units located on Tract B-2-2 and two units located on Tract B-2-1. Tract B-2-1 is also subject to a reserved right to construct two additional dwelling units. By agreement with the East Alameda Compound Condominium Owners' Association, Inc., the owner of the reserved rights will voluntarily extinguish the right to build one unit. Therefore, if the final unit is constructed, the condominium will contain a total of 10 dwelling units. Upon extinguishment of the remaining development right, no further units may be constructed.

Please contact me if you have questions.

Sincerely,



Rachel L. Winston

THE WINSTON FIRM

A PROFESSIONAL CORPORATION

508 WEST CORDOVA ROAD
SANTA FE, NM 87505
505-819-3731 (OFFICE)

RACHEL L. WINSTON, ESQ.

RACHEL@THEWINSTONFIRM.COM
WWW.THEWINSTONFIRM.COM
866-511-6686 (FAX)

Memorandum

TO: Tamara Baer, City of Santa Fe Planning Manager
FROM: Rachel Winston
DATE: March 31, 2014
RE: Title History for Lot B-2-1, East Alameda Compound Condominium

- 9/21/2004 Jay Parks (as President of Parks Company of New Mexico, Inc.) executes the Declaration of Condominium Ownership and of Easements, Restrictions and Covenants for East Alameda Compound Condominium ("Declaration").
- 10/12/2004 Jay Parks records a Warranty Deed conveying Tract B-2 (comprising the land within East Alameda Compound Condominium) from Parks Company of New Mexico, Inc. to East Alameda, LLC, a New Mexico limited liability company (see Instrument No. 1350165).
- 10/27/2004 Declaration executed on 9/21/2004 is recorded creating Unit 6 and Unit 7 (see Instrument No. 1352245).
- 2/24/2005 Jay Parks records the First Amendment to Declaration, creating the Reserved Development Right to add Unit 7B and Unit 7C (see Instrument No. 1368345).
- 3/22/2005 Jay Parks records a Warranty Deed (see Instrument No. 1371919) conveying Unit 7 to:

Northington Properties, LLC, a New Mexico limited liability company (40%);
540 East Alameda, LLC, a New Mexico limited liability company (40%);
JSR Investments, LLC, a New Mexico limited liability company (10%);
Jay Parks, a married man dealing with his sole and separate property (10%).
- 4/27/2005 Jay Parks records the Second Amendment to Declaration, amending the area encompassed by the Reserved Development Right to withdraw land from the Condominium (see Instrument No. 1377191).
- 10/27/2005 Jay Parks records a Warranty Deed (see Instrument No. 1406151) assigning Reserved Development Rights to create Units 7A, 7B and 7C to:

Northington Properties, LLC, a New Mexico limited liability company (40%);
540 East Alameda, LLC, a New Mexico limited liability company (40%);
JSR Investments, LLC, a New Mexico limited liability company (10%);
Jay Parks, a married man dealing with his sole and separate property (5%);
Interiors & More, Inc., a New Mexico corporation (5%).

- 2/10/2007 Brenda Bunting (as President of Interiors & More, Inc.) records a Quitclaim Deed quitclaiming her interest in the Reserved Development Rights to add Unit 7A, 7B and 7C (see Instrument No. 1469293).
- 1/18/2008 Pursuant to a Tenant in Common Agreement between Northington Properties, LLC, 540 East Alameda, LLC, JSR Investments, LLC and Jay Parks, dated March 11, 2005, Tracy Northington and Christopher Smith execute and record the Fifth Amendment to Declaration, creating Unit 7B (see Instrument No. 1512793).
- 2/14/2008 Jay Parks (as President of Parks Company of New Mexico, Inc.) records a Warranty Deed granting Northington Properties, LLC, JSR Investments, LLC and Jay Parks the Reserved Development Right to Withdraw the land identified in Exhibit 1 to the Declaration from the Condominium (see Instrument No. 1515380).
- 8/27/2010 Jay Parks (as President of Parks Company of New Mexico, Inc.) records a Correction Warranty Deed of Assignment assigning all of the unexercised Reserved Development Rights to Northington Properties, LLC (40%), 540 East Alameda, LLC (40%) and JSR Investments, LLC (20%). The assignees accept this assignment via execution of the Correction Warranty Deed (see Instrument No. 1609048).
- 6/28/2013 Christopher Smith (Co-Managing Tenant of the TIC) and Steve Keene, (Co-Managing Tenant of the TIC) record a Warranty Deed from Northington Properties, LLC (40%), 540 East Alameda, LLC (40%) and JSR Investments, LLC (20%) to Janet A. Fairley and David T. Woodley conveying Unit 7B.

#

City of Santa Fe, New Mexico

Exhibit C

**CASE 2008-21
DEVELOPMENT REVIEW APPLICATION**



Needs to p. 4 \$2000 for poster
C. Martinez pd.



DEVELOPMENT REVIEW APPLICATION

Project Name 540 E. Alameda Condominiums
 Project Location 540 E. Alameda
 Uniform Parcel Code No. 1-054-099-521-065
 Plat No. _____
 ENN/Related Case No. _____
 Subdivision Name _____
 Lot Tract B-2 Block _____ Acreage _____
 Owner(s) Name TRACY Northington
 Owner(s) Address 178 El Camino Campo
CORRALES, N.M.
 Phone No. 983-5932 Cell No. _____
 Fax No. _____ E-mail Address _____
 Agent(s) Name DAVID COOPER Richard Horcasitas 920
 Agent(s) Address 1452 St Francis Drive 3844
Santa Fe, N.M.
 Phone Number 983-5932 Cell Number _____
 Fax No. 983-5960 E-mail Address DAVID@SIERRALANDSURVEYS.COM

Committee

- ☐ Early Neighborhood Notification
☐ Board of Adjustment
☐ City Council
☐ Historic Design Review Board
☐ Planning Commission
☐ Summary Committee

Submittal Date

Proposed Meeting Date

SD-2008-²¹
 5:11/06/08

Type of Submittal

- ☐ Amended Development Plan ☐ Final Subdivision ☐ Preliminary Development Plan
 No. of Lots _____
☐ Appeal ☐ General Plan Amendment ☐ Preliminary Subdivision
 No. of Lots _____
☐ Annexation ☒ LAND DIVISION
☒ Lot Consolidation Adjustment ☐ Rezoning From _____ to _____
☐ Dedication Plat ☐ Lot Line Adjustment ☐ Rezoning From _____ to _____ w/Dev Plan
☐ Development Plan ☐ Mobile Home ☐ Special Exception
☐ Family Transfer ☐ Plat Amendment (Admin.) ☐ Time Extension
☐ Final Development Plan ☐ Plat Amendment (PC) ☐ Variance
☐ Waiver

New Construction:Single-Family Residence ☐Commercial ☐Multi-Family Residence ☐**Other Construction:**Demolition ☐Remodel ☐Addition ☐Residential ☐Signs ☐Wall/Fence ☐Antenna ☐**Pre-application Meeting:** Date: _____ Case Planner: _____**Preliminary Zoning Review:** Date: _____ Planner: _____**Height Calculation**

Does the project include multi-story new construction, a building addition, and/or a wall or fence which will increase height?

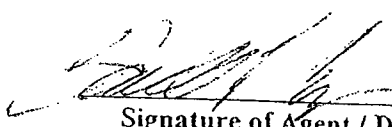
YES ☐NO ☐

If yes, please provide a written request for an updated maximum allowable height calculation.

What is the proposed height of your project? _____

Construction Cost \$ _____ FEE \$ _____ + \$ 20 Per Poster = \$ _____

I hereby certify that the documents submitted for review consideration by Summary meeting of October 17, 2008 have been prepared in accordance with the checklist and meet the minimum standards outlined in Chapter 14 SFCC 1987. Failure to meet these standards may result in rejection of my application. I also certify that I have met with a representative of the city's Zoning staff and verified the attached proposal is in compliance with the city's zoning requirements.

Signature of Owner / Date
Signature of Agent / Date

09/12/08

SIERRA LAND SURVEYING, INC.

August 18, 2008

Chris Martinez
Planner Senior Technician
Planning and Land Use
City Of Santa Fe

Re: Land Division
Tracy Nortinington
540 East Alameda Street
Santa Fe, New Mexico
Zoning designation "ACRC8"

Dear Mr. Martinez,

Submitted for review is the "Plat of Land Division" for the 540 East Alameda Compound for Tracy Northington. Mr. Northington is preparing to remove Unit 7 from the condominium and create two lots.

If you have any questions or need any additional information. Please do not hesitate to call.

Sincerely,



David E. Cooper

Enc;
Application
Plat for legal lot of record
3 Copies of plat
Check for \$130.00

1452 St. Francis Drive
Santa Fe, NM 87505

PHONE (505) 983-5932
FAX (505) 983-5960
E-MAIL sierraland@qwest.net

City of Santa Fe
Cashiers Office
Santa Fe, NM 87504
(505)955-4333

09/12/2008 4:21:54 PM
Your cashier was Alicia
8001501108256 T44

Development Review
RICHARD LAND SURVEYING
11001.431415

\$130.00

Total \$130.00

Check 7757 \$130.00

Change \$0.00

City of Santa Fe
Cashiers Office
Santa Fe, NM 87504
(505)955-4333

10/20/2008 9:42:16 AM
Your cashier was Alicia
B002501108291 T17

Development Review
RICHARD HORCASITAS
11001.431475

\$20.00

Total \$20.00

Cash \$100.00

Change \$0.00

CITY OF SANTA FE, NEW MEXICO

LAND USE DEPARTMENT

PERMIT AND DEVELOPMENT REVIEW DIVISION

P.O. Box 909, 200 Lincoln Ave., 87504-0909

NOTICE OF SUMMARY COMMITTEE HEARING

Notice is hereby given that the Summary Committee of the City of Santa Fe will hold a public hearing in the City Council Chambers, 200 Lincoln Avenue (City Hall, 1st Floor), on Thursday, November 6, 2008 at 11:00 a.m. to consider the following request:

Case #SP 2008-21. Tracy Northington Lot Split. David Cooper, Sierra Land Surveying Inc., agent for Tracy Northington, requests plat approval to divide 1.7147 acres into two tracts. The property is located at 540 East Alameda and is zoned ACRC8 (Arts & Crafts/Residential Compound, 8 units per acre) Downtown and Eastside Historic District & Historic Downtown Archaeological Review District. (Chris Martinez, case manager)

Questions may be directed to the Santa Fe Permit and Development Review Division staff at 955-6585. Any and all interested parties are invited to attend the public hearing and will be heard prior to the Summary Committee taking action. Formal comments may be submitted in writing to the Permit and Development Review Division prior to the hearing, at City Hall, 200 Lincoln Avenue.

BAER, TAMARA

From: BRENNAN, KELLEY A.
Sent: Thursday, December 04, 2008 10:17 AM
To: BAER, TAMARA
Cc: MARTINEZ, CHRISTOPHER
Subject: Case #SP-2008-21 540 East Alameda Lot Split
Importance: High

Dear Tamara –

I have reviewed the material provided to you by the applicant's attorney under cover of his letter dated November 25, 2008, intended to address the questions raised at the November 6, 2008 Summary Committee meeting regarding whether the applicant was the owner of the property for the purposes of a lot split. It appears from the information submitted by Attorney Patterson that the lot split is permissible and that the applicant is the proper applicant.

I note that Attorney Patterson's letter is dated Tuesday, November 25, that City Hall was closed November 27 and 28 for the Thanksgiving holiday, and that the applicant left City staff very little time to review the information submitted and ask any questions that might arise as a result of that review. In effect, the applicant took close to three weeks to respond to the Committee's questions with information that might reasonably be expected to have been provided with the initial application, and which was presumably known to them, giving City staff a matter of a few days to review it for responsiveness and compliance.

Kelley

12/04/2008

C-6

Exhibit A

Scheuer, Yost & Patte
A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

RALPH H. SCHEUER
MEL E. YOST
JOHN N. PATTERSON
CHARLOTTE H. HETHERINGTON
DONALD A. WALCOTT
BYRON L. TREASTER
CHRISTOPHER M. GRIMMER
DARA L. MCKINNEY
CHARLES V. HENRY, IV
KRISTOFER C. KNUTSON
KRISTIN L. DAVIDSON
RACHEL L. WINSTON

OF COUNSEL:
REVERDY JOHNSON
HOLLY A. HART
TONY F. ORTIZ

MELVIN T. YOST
1914 - 2001

REET ADDRESS:
ENUE, SUITE 223
W MEXICO 8 501

1200 TRINITY DR., SUITE 424
LOS ALAMOS, NEW MEXICO 8 544

MAILING ADDRESS:
POST OFFICE DRAWER 670
SANTA FE, NEW MEXICO 87604-670

TELEPHONE: (505) 982-911
(505) 989-600

FACSIMILE: (505) 982-621
TAOS DIRECT: (575) 768-363
LOS ALAMOS DIRECT: (505) 662-636
WEBSITE: santafelawyers.com

November 25, 2008

Tamara Baer, Planning Manager
City of Santa Fe

Santa Fe, NM 87501

Re: *Case SP-2008-21*

Dear Ms. Baer:

I have been asked by Mr. Northington, the applicant, to respond to the memo of November 6, to you and Jack Hiatt from Chris Martinez, as several of the items raised are of a legal nature.

1. Ownership of the land in question. Mr. Martinez raises the question of ownership of the land to be split, as City Ordinance requires the application for lot split be in the name of the land owner. This case is a bit unusual in that the land in question is subject to the condominium form of ownership. As such, the real property is owned in undivided interests by all the unit owners. However, pursuant to the Declaration (Art. III, §9) and the First Amendment thereto (§2), copies of which are attached to this letter, the Declarant, Parks Company of New Mexico, reserved the right to withdraw from the condominium the land described on Exhibit B to the First Amendment, which is the same as the land now comprising the proposed Tract B-2-1. This right to withdraw is part of the Development Rights created by the New Mexico Condominium Act NMSA 1978, Chap. 47, Articles 7A-7D. As such, only the holder of the Development Right to Withdraw has the legal power to withdraw the land, and permission of the owners is not required. In this case, a representative of the owners appeared at the last meeting of the Summary Committee and affirmed that the owners did not object to this withdrawal. I should also point out that the reserved right to withdraw was assigned by Parks Company of New Mexico to Northington Properties, LLC, JSR Investments, LLC, 540 East Alameda, LLC, Jay Parks, and Interiors & More (Warranty Deed Attached), for which Tracy Northington is acting

Scheuer, Yost & Patterson

ATTORNEYS AT LAW

Tamara Baer, Planning Manager

November 25, 2008

Page 2

as agent. Given these matters, it is my opinion that the applicant is properly identified, as these parties are the only holders of the legal right to do what is requested in the application.

2. Turnaround. The turnaround noted on the plat is on an easement created by the deed attached to this letter.

3. Well. The location of the well is shown on the plat. It has not been capped.

4. Chapter 14 Compliance of Guesthouse. There is a zero lot line. There is a firewall without window or door openings.

5. Short Term Rental. A copy of the short term rental license is attached.

6. Question of Proper Forum. I understand that Greg Smith ruled on this question at the last meeting of the Summary Committee.

If I can provide further information on any of these points, please give me a call.

Sincerely,


John N. Patterson

City of Santa Fe, New Mexico

Exhibit D


**CASE 2008-21
STAFF REPORTS & MINUTES**


City of Santa Fe, New Mexico

memo

Date: November 24, 2008 for Summary Committee Hearing December 4, 2008

To: Summary Committee

Via: John B. Hiatt, Land Use Director
Tamara Baer, Planning Manager 

From: Chris Martinez, Planner Technician Senior 

Item & Issue:

Case #SP-2008-21 Tracy Northington lot split. David Cooper, agent, Sierra Land Surveying Inc., for Tracy Northington, requests plat approval to divide 1.7147 acres into two tracts. The property is located at 540 East Alameda and is zoned ACRC8. The property is located in the Arts & Crafts Residential Compound, Downtown and Eastside Historic District and Historic Downtown Archaeological District.

Note: This case was postponed at the Summary Committee on November 6, 2008 in order to address the following items:

1. Properly authorized applicant.

See Exhibit A, letter from John N. Patterson, attorney.

2. Turnaround at the end of the 25' access and utility easement: on adjacent property.

See Exhibit A letter.

3. Location of the well on Tract B-2-1, and whether it's been capped.

See Exhibit A. Well is located adjacent to Unit H. Per applicant, developer of condominium units was not required to cap well.

4. The set backs on the guest house on Tract B-2-1, what are the dimensions, is there a zero lot line, is there a fire wall without windows or doors, are they in compliance with Chapter 14?

In compliance with Chapter 14, see Exhibit A.

5. Short term rental application on file with the City of Santa Fe.

Permit applied for 3/28/08 and issued on 11/25/08 see Exhibit A.

6. Since this lot split is dealing with 10 units, should this have been referred to the Planning Commission rather than the Summary Committee?

Mr. Greg Smith, Director of Current Planning stated “because there are two lots of record not doing any modifications to the current configuration, this case should remain a lot split and not be referred to the Planning Commission.”

This application was reviewed for the following:

Downtown & Eastside Historic District: The property is located in the Downtown and Eastside Historic District. (Please see David Rasch, Historic Preservation Division report.)

Historic Downtown Archaeological District: The property is located in the Downtown Archaeological District. (Please see David Rasch, Historic Preservation Division report.)

Access: The property is accessed from East Alameda.

Water Supply: Public water is available to serve the property. Tie-in to water shall comply with respective division requirements.

Sanitary Sewer Service: Sanitary Sewer Service is available to serve the property. Tie-in to sewer service shall comply with respective division requirements.

Zoning: The property is zoned ARCC8, Arts & Crafts Residential Compound.

Floodplain: Entire property is not located within the floodplain. (Please see attached map provided by Mr. Charlie Gonzales, Development Review Coordinator, Development Review Division.)

Historic Preservation Division: Mr David Rasch, Acting Director, Historic Preservation Division, in his memo dated October 28, 2008, states “The property is located within the

Downtown & Eastside Historic District. The main residence and guest house on proposed tract B-2-1 and guest house and well structure on proposed Tract B-2-2 are listed as contributing to the District. The remaining recently constructed structures are listed as non-contributing.

The H-Board has already acted upon the remodeling and construction of all structures on the property. The lot split does not impact the historic resources.

The property is located within the Historic Downtown Archaeological Review District. The ARC has already granted archaeological clearance without conditions on this property.

Fire Department: Ms. Barbara Salas, Fire Marshall reviewed this lot split application for compliance with the Fire Department Code. (A copy of her report will be provide to Summary Committee at the meeting as she was out of town at training and was unavailable until November 3, 2008.)

Recommendation:

The proposed request meets the Chapter 14 requirements for lot splits. Staff recommends approval of this case subject to the staff conditions listed in the following memoranda:

1. Comply with comment from the following Divisions:
 - Fire Department
2. Additionally applicant shall comply with the following:
 - a. Prior to filing the final plat, these notes shall be placed on the plat:
 - b. Property development is required to comply with applicable provisions of Chapter 14, Land Development Code, SFCC 2001 and subsequent amendments.
 - c. Property development is required to comply with the provisions of each City of Santa Fe Ordinance adopted prior to Plat and/or Development Plan recording with the County Clerk or submittal for a Building Permit application that modifies any provision of Chapter 14, Land Development Code, SFCC 2001 and subsequent amendments.
 - d. Buildable areas for platted parcels will be determined at the time of building permit application as detailed in the Land Development Code. Any buildable areas shown hereon are subject to relocation per code requirements.
 - e. Each lot shall be served with separate sewer and water services.

3. Staff redline comments will be provided to surveyor who shall address issues and be returned in Mylar.

File Copy

CITY OF SANTA FE, NEW MEXICO

LAND USE DEPARTMENT
PERMIT AND DEVELOPMENT REVIEW DIVISION
P.O. Box 909, 200 Lincoln Ave., 87504-0909

NOTICE OF SUMMARY COMMITTEE HEARING

Notice is hereby given that the Summary Committee of the City of Santa Fe will hold a public hearing in the City Council Chambers, 200 Lincoln Avenue (City Hall, 1st Floor), on Thursday, November 6, 2008 at 11:00 a.m. to consider the following request:

Case #SP 2008-21. **Tracy Northington Lot Split.** David Cooper, Sierra Land Surveying Inc., agent for Tracy Northington, requests plat approval to divide 1.7147 acres into two tracts. The property is located at 540 East Alameda and is zoned ACRC8 (Arts & Crafts/Residential Compound, 8 units per acre) Downtown and Eastside Historic District & Historic Downtown Archaeological Review District. (Chris Martinez, case manager)

Questions may be directed to the Santa Fe Permit and Development Review Division staff at 955-6585. Any and all interested parties are invited to attend the public hearing and will be heard prior to the Summary Committee taking action. Formal comments may be submitted in writing to the Permit and Development Review Division prior to the hearing, at City Hall, 200 Lincoln Avenue.

City of Santa Fe, New Mexico

memo

Date: October 28, 2008 for Summary Committee Hearing of November 6, 2008

To: Summary Committee

Via: John B. Hiatt, Land Use Director *JBH*
Tamara Baer, Planning Manager *TB*

From: Chris Martinez, Planner Technician Senior *CM*

Item & Issue:

Case #SP-2008-21 Tracy Northington lot split. David Cooper, agent, Sierra Land Surveying Inc., for Tracy Northington, requests plat approval to divide 1.7147 acres into two tracts. The property is located at 540 East Alameda and is zoned ACRC8. The property is located in the Arts & Crafts Residential Compound, Downtown and Eastside Historic District and Historic Downtown Archaeological District.

This application was reviewed for the following:

Downtown & Eastside Historic District: The property is located in the Downtown and Eastside Historic District. (Please see David Rasch, Historic Preservation Division report.)

Historic Downtown Archaeological District: The property is located in the Downtown Archaeological District. (Please see David Rasch, Historic Preservation Division report.)

Access: The property is accessed from East Alameda.

Water Supply: Public water is available to serve the property. Tie-in to water shall comply with respective division requirements.

Sanitary Sewer Service: Sanitary Sewer Service is available to serve the property. Tie-in to sewer service shall comply with respective division requirements.

Zoning: The property is zoned ARCC8, Arts & Crafts Residential Compound.

Floodplain: Entire property is not located within the floodplain. (Please see attached map provided by Mr. Charlie Gonzales, Development Review Coordinator, Development Review Division.)

Historic Preservation Division: Mr David Rasch, Acting Director, Historic Preservation Division, in his memo dated October 28, 2008, states "The property is located within the Downtown & Eastside Historic District. The main residence and guest house on proposed tract B-2-1 and guest house and well structure on proposed Tract B-2-2 are listed as contributing to the District. The remaining recently constructed structures are listed as non-contributing.

The H-Board has already acted upon the remodeling and construction of all structures on the property. The lot split does not impact the historic resources.

The property is located within the Historic Downtown Archaeological Review District. The ARC has already granted archaeological clearance without conditions on this property.

Fire Department: Ms. Barbara Salas, Fire Marshall reviewed this lot split application for compliance with the Fire Department Code. (A copy of her report will be provided to Summary Committee at the meeting as she was out of town at training and was unavailable until November 3, 2008.)

Recommendation:

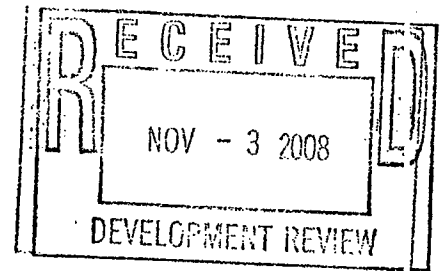
The proposed request meets the Chapter 14 requirements for lot splits. Staff recommends **approval** of this case subject to the staff conditions listed in the following memoranda:

1. Comply with comment from the following Divisions:
 - Fire Department
2. Additionally applicant shall comply with the following:
 - a. Prior to filing the final plat, these notes shall be placed on the plat:
 - b. Property development is required to comply with applicable provisions of Chapter 14, Land Development Code, SFCC 2001 and subsequent amendments.
 - c. Property development is required to comply with the provisions of each City of Santa Fe Ordinance adopted prior to Plat and/or Development Plan recording with the County Clerk or submittal for a

Building Permit application that modifies any provision of Chapter 14, Land Development Code, SFCC 2001 and subsequent amendments.

- d. Buildable areas for platted parcels will be determined at the time of building permit application as detailed in the Land Development Code. Any buildable areas shown hereon are subject to relocation per code requirements.
 - e. Each lot shall be served with separate sewer and water services.
3. Comply with the comments from the following Division(s):
 - Fire Department
 4. Staff redline comments will be provided to surveyor who shall address issues and be returned in Mylar.

HAROLD ZAREMBER
5 EAST 82ND STREET
NEW YORK, NY 10028



Via Certified Mail

October 29, 2008

City of Santa Fe, New Mexico
Land Use Department
Permit and Development Review Division
P.O. Box 909, 200 Lincoln Avenue 87504-0909

RE: Case #SP2008-21


Dear Sir/Madam:

In response to the "Notice of Summary Committee Hearing", I want to offer my formal comments.

I object to any further subdivision of this property. It is adjacent to mine. It should be noted that this developer when first starting his work a few years ago, approached all of the neighbors with their plans showing everything that they intended to do within that parcel of land. In fact they never truly followed that plan, even though we were assured that that was all they intended. Contiguous to my property they originally showed a small garage, however that structure is now a formal dwelling unit and could never be used as a garage.

In addition there is more than enough density in this area serviced by a narrow dirt road. Also how many times will this developer return asking for further subdivision?

Sincerely,


Harold Zarembler

HZ/yk

cc: File

City of Santa Fe, New Mexico

memo

DATE: October 28, 2008
TO: Chris Martinez, Current Planning Division
FROM: David Rasch, Historic Preservation Division DR
RE: SP-2008-21 540 East Alameda Lot Split

The property is located within the Downtown & Eastside Historic District. The main residence and guest house on proposed tract B-2-1 and the guest house and well structure on proposed tract B-2-2 are listed as contributing to the District. The remaining recently constructed structures are listed as non-contributing.

The H-Board has already acted upon the remodeling and construction of all structures on the property. The lot split does not impact the historic resources.

The property is located within the Historic Downtown Archaeological Review District. The ARC has already granted archaeological clearance without conditions on this property.

City of Santa Fe, New Mexico

memo

DATE: November 4, 2008

TO: Chris Martinez

FROM: Barbara Salas
Barbara Salas, Fire Marshal

SUBJECT: Summary Committee Case: Tracy Northington Lot Split

Case #	SP-2008-21				
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I have conducted a review of the above mentioned case(s) for compliance with the 2003 International Fire Code® (IFC). I am recommending a conditional approval by the Summary Committee with the following conditions:

The owners shall provide Plat Notes stating:

Prior to any new construction a fire access road in accordance with Chapter 14 of the Santa Fe City Code and the International Fire Code shall be provided. Fire access road requirements shall address width, grade and turnarounds.

City of Santa Fe, New Mexico

memo

DATE: November 25, 2008
TO: Tamara Baer, Land Use Planner Manager
FROM: Brian K. Snyder, Water Division Engineer Supervisor *BKS*
SUBJECT: Northington Lot Split (Case Number SP-2008-21)
Davenport Lot Split (Case Number SP-2008-24)

As discussed earlier today, it is my understanding that the property owners for Case Number SP-2008-21 (Northington) and Case Number SP-2008-24 (Davenport) are requesting lot splits.

The following are typical City Water Division requirements:

- If the subject property is within 300 feet of an existing City of Santa Fe water main the subject property shall be required to connect to the water main with a metered service connection.
- In accordance with Chapter 25, Exhibit A.18 all dwelling units shall have separate water meters.
- An Agreement for Metered Service (AMS) with the City Water Division will be required prior to issuance of any construction permit for the subject lot.
- As a condition of City water service, any existing well located on the subject property shall be plugged and abandoned, in accordance with Office of the State Engineer (OSE) requirements, at the owner's expense.
- Fire service requirements shall be determined by the Fire Department prior to development or issuance of a building permit.

Please have the property owners contact the Water Division to begin the AMS process.

xc: Antonio Trujillo, Water Division Engineer
File

Mr. Shrader thought it has been up there for a long time. It looks like someone dug a hole for a pond possibly. He said it is possibly from the 1970's.

Chair Armijo said there was a request to identify those.

Mr. Shrader agreed to try and said some are easy to identify.

Chair Armijo asked if the driveways exist.

Mr. Shrader pointed out what is existing.

Commissioner Lindell moved to approve Case #SP-2008-20, Commissioner Lopez seconded the motion.

Commissioner Lindell asked if they need to approve the lot line adjustment and the lot split in the motion.

Ms. Baer stated that the lot line adjustment is an administrative procedure.

There being no abstaining or dissenting votes, the motion passed by unanimous voice vote.

3. **Case #SP 2008-21.** Tracy Northington Lot Split. David Cooper, Sierra Land Surveying Inc., agent for Tracy Northington, requests plat approval to divide 1.7147 acres into two tracts. The property is located at 540 East Alameda and is zoned ACRC8 (Arts & Crafts/Residential Compound, 8 units per acre) Downtown and Eastside Historic District & Historic Downtown Archaeological Review District.

Chris Martinez presented the staff report prepared October 28, 2008 which is incorporated herewith to these minutes as Exhibit "2."

Letter from Harold Zarembor dated October 29, 2008 is incorporated herewith to these minutes as Exhibit "2(A)."

Staff recommends approval based on the conditions included in the staff report.

Public Hearing

Richard Horcasitas, representing David Cooper as agent for the applicant, was sworn. He said they agree with all the conditions of approval. This is a function of divorcing the house from the rest of the condominium complex.

Cliff, president of the condo association that is behind the main house, was sworn. They have no objection to the split and would like to remind the Committee that the parties concerned have agreed to a new address for the current house.

Edward Gonzales, owner abutting the project, was sworn. He said he is not against the lot split. He reported that when the project first started Mr. Parks notified all the neighbors and furnished them with a plat to show what the plans were. He looked at other projects the developer built and they seemed nice. All of a sudden they had a

tremendous project with underground parking. It has taken 2 ½ years for this project to be completed with tons of traffic. The concern is that they had received a plat showing what was going on. He thought the back piece was being sold off, but it is actually the original property. The map Mr. Martinez showed him at this hearing gives the opportunity to build another unit on the property from what he understands.

Chair Armijo asked if it is the B-2(1).

Mr. Gonzales stated that one of the property owners in the condos said there is the opportunity for one more residence. It seems like it would be sandwiched in. He asked if the person could have two guesthouses and sell that piece later on.

Chair Armijo said typically you are allowed a main house and a guesthouse, although they could come in for an addition.

Mr. Gonzales explained that the original plat shows a developed area.

Ms. Baer pointed out that the Committee could ask the applicant for a commitment that there would be no further lot splits. At this time they are proposing to create a separate lot. Per the zoning they would have to look if they are allowed another unit and it is possible that they could squeeze another unit in. She knows that is not the intent currently. The applicant would have to go through all the city review processes to do so.

Chair Armijo asked how many times they can split the lot.

Ms. Baer stated that the subdivision laws try to prevent serial lot splits. The city would require at least a three year separation between lot splits. Family transfers are looked at a little more lenient. There is a gap in the subdivision regulations that do not entirely prevent it.

Chair Armijo understood that although he thought that if a subdivision was created they would have to go in front of the Planning Commission.

Ms. Baer said that is true, but at times these fall through the cracks.

Mr. Gonzales was skeptical because Mr. Parks seemed forward in the beginning and before they knew it there was much more and underground parking. He noted that the project took longer to build than the new convention center. He is not complaining about the density, but concerned that this property is not maxed out and there is the potential for another 7-8 units in the other chunk.

Chair Armijo asked if the Committee could see the original plat.

Mr. Gonzales showed it to him.

Charlotte Stuart, friends own 528 East Alameda, was sworn. She often stays at this address. She thinks the main house is owned by a real estate group that rents it out. They are not affected by the condos except for the traffic. She saw the door was open for three days and went in. It was rented and run like a hotel with people constantly in and out. When they built onto the back they built a guesthouse onto her friend's property and they have been in litigation. The people have not been forthright so they

do not trust what is going on. She wanted to make the Committee aware of the situation because the residents see this on a daily basis.

The Public Hearing was closed.

Questions and Comments from the Committee

Commissioner Lindell asked if the property is licensed as a short term rental.

Ms. Baer stated that no representations have been made to staff regarding that, but agreed to commit to looking into the rental situation. At this hearing, they are only looking at the lot split.

Commissioner Lindell noted that it appears they are missing unit 7.

Mr. Horcasitas said the studio next to unit 6 is unit 7.

Commissioner Lindell wanted assurance that there is no room for unit 7 between 1 and 6.

Mr. Horcasitas stated that there is not room as this is part of the driveway.

Commissioner Lindell asked what the allowed density on tract B-2(2) is.

Ms. Baer replied RC-8, so the maximum is 8 plus a guesthouse, although she believes this is built out.

Mr. Horcasitas confirmed that they are already built out at 8 units.

Commissioner Lindell asked what the allowed density is on B-2(1).

Ms. Baer replied five units.

Commissioner Lindell wondered if allowing the lot split will allow more density and units to go on the property.

Ms. Baer's understanding was that it was always the intention to split off the front piece and that was the end of development for the entire property although she does not have that in writing.

Commissioner Lindell asked if the applicant would accept that as part of the approval that no additional building would be allowed on either lot. She asked Mr. Horcasitas if he would like to make a call or postpone the case.

Mr. Horcasitas believed the applicant would be available if he were allowed time to make the call.

Commissioner Lindell noted that Mr. Zarembor states in his letter that one plan was represented to the neighbors and another plan was built. She expressed concern that this is growing. She did not want to see another five residences.

Mr. Horcasitas pointed out that to the south of the residence there is a garden wall and outdoor shower; to the east there is an access utility easement that is not buildable; to the north there is the front yard with a huge tree and utility easement that takes up the corner; and to the west there is the driveway. There is functionally no room to build.

Commissioner Lindell said they have seen projects proposed that she never thought would happen. She suggested a recess to call the client. She added that she will not support this without a condition that there be no further lots splits and no additional building.

Commissioner Lindell asked what the intended use of the property is.

Mr. Horcasitas replied a single family residence and guesthouse.

Commissioner Lindell asked if there is any other indication of the use.

Mr. Horcasitas stated that there is a for sale sign.

Commissioner Lindell understood that the applicant wants the lot split prior to sale.

Mr. Horcasitas said they are coming forward now with the applicant. He said the client agrees to the conditions of approval and complying with all the elements of Chapter 14, however he is reluctant to agree to a condition of approval preventing more building on the site.

Chair Armijo asked the Assistant City Attorney to review the case.

Ms. Brennan was now present to review the case.

Commissioner Lindell explained that to approve this she would want a condition that there be no further lot splits and no additional building units.

Ms. Brennan understood that condition was even if it were permitted through underlying zoning.

Ms. Baer explained that it was always envisioned that it would be okay to split this lot from the rear. The owners of the condominium association are not objecting. This was bought with the understanding that this could go forward.

Ms. Brennan questioned whether there was an agreement between the condo owners and the owner of the residence that there would be a lot split.

Ms. Baer's understanding was that there was an agreement.

Ms. Brennan believed the Committee has the authority to make the conditions, but would not do so where there are existing rights to build more. They cannot restrict forms of ownership, although they would have to comply with applicable requirements.

Commissioner Lindell asked why this was developed without splitting off the front house in the beginning. This puzzled her that they would not have done this at the beginning.

Mr. Horcasitas guessed this portion of the development was purchased by Tracy Northington as the other parcels were purchased by other individuals. This is the plan currently.

Ms. Baer explained that it was a different developer that developed the whole property and sold off this unit.

Commissioner Lindell asked how long Northington has owned the property.

Mr. Horcasitas was not sure, but guessed two years.

Chair Armijo asked if they only own the residence how they can do a lot split. He questioned that someone would need to own the entire lot to split it.

Ms. Brennan asked if the building was transferred as a condominium or fee simple.

Mr. Horcasitas did not have the warranty deed, but guessed condominium.

Ms. Brennan asked if this lot will withdraw from the condominium association.

Mr. Horcasitas guessed yes.

Chair Armijo suggested postponement because he did not feel comfortable with this without knowing the ownership of the entire property. He added that they need clarification on what is a condo or residence. He also questioned what the required setback at the guesthouse is. He also wanted clarification on whether there is a common wall and what the fire egress is. He questioned if this meets the percentage for lot coverage.

Ms. Baer said it does meet the percentage.

Chair Armijo asked what percentage of land they need for building reserves.

Ms. Baer explained that it is an open space requirement rather than lot coverage.

Chair Armijo hoped after the rewrite of Chapter 14 that this type of case would go to the Planning Commission rather than the Summary Committee. He said they are dealing with 13-15 units. He asked if the turnaround is legal into someone else's property. He wanted to know if the well has been capped.

Commissioner Lindell moved to postpone Case 2008-21 and requested that when this is rescheduled staff has a list of the questions answered, Commissioner Lopez seconded the motion.

Chair Armijo asked that the neighbors be notified.

Ms. Baer said if this is postponed then the notice happens at the hearing and there is no notification in the mail.

December 4th is the next meeting.

Chris Martinez presented the staff report prepared November 24, 2008 which is incorporated herewith to these minutes as Exhibit "1."

Email from Kelley Brennan dated December 4, 2008 is incorporated herewith to these minutes as Exhibit "1(A)."

Staff recommends approval based on the conditions included in the staff report.

Public Hearing

Richard Horcasitas, 421 St. Michaels Drive, was sworn. He noted that this is a continuation of the lot split application from last month. The intent is to divorce Tracy's part of the property from the condo association. The lot split complies with all the requirements. He said there were questions last time and he is prepared to answer those.

Cliff Vernick, 520 East Alameda, Unit B, was sworn. He said there was a question at the last hearing regarding the density of this piece of property. The original plat showed that there might be another unit added at the opposite corner where there is currently a guesthouse. In his opinion this is too much and would be more than the plot would tolerate in terms of density and potential traffic.

Layben Weingert, 117 North Guadalupe, representing Virginia Duane residing at 138 Camino Escondido, was sworn. There is no issue with the lot split, but they want to make sure that all parties are aware that the driveway has a limited access from the Fire Marshal. If the applicant expects to use that driveway which has the easement through the property serving the condos in the back, he believes the fire marshal will not allow any further traffic on that lane.

Charlotte Stewart, represent friends that own 528 East Alameda, was sworn. She submitted information that she took from the main house regarding the rental. The point she made was that the original proposal for this was that the guesthouse would be a garage although it is rented. She called the Management Group because the door was open and they came to close and lock the house. The Zarimber's concern is that what is being presented is not is what is really happening and that it is not a simple lot split. When they built the guesthouse on the back it created a common wall and they were in litigation about that issue.

Todd Davis, Casas de Santa Fe, new property manager for 540 East Alameda, was sworn. The information submitted was from the prior management company which is no longer managing since June of this year. He clarified that they only lease the main property, not the guesthouse.

The Public Hearing was closed.

Questions and Comments from the Committee

Ms. Baer commented that Maryanne Seiderer and Tomas Herrera are present and they administer the short term rental program for the City.

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Commissioner Lindell asked if the letter from Mr. Patterson was received and if there was attached a short term rental license.

Mr. Martinez stated that he never received that document.

Commissioner Lindell asked if this property has a short term rental permit.

Mary Ann Seiderer explained that the applicant applied for their permit on March 28th and the public had every right to attend the meetings. She noted that the actual address is currently 540 East Alameda and when they change the address they will have to bring the change of address documentation in.

Commissioner Lindell asked if the permit allows short term rental of the guesthouse and main house.

Ms. Seiderer said they can rent one or the other but cannot rent out both.

Commissioner Lindell was sorry that was not included in the packet. There is an email from Ms. Brennan stating documentation requested was delivered prior to the holiday weekend without a chance for staff to respond. She said it is unfair to staff to ask them to review a case in that short amount of time. She did not want this to happen again.

Mr. Horcasitas understood.

Chair Armijo pointed out that the Commissioners can delay the case if they want the attorney to have adequate time to review this case.

Rachel Winston, Scheuer, Yost and Patterson, 129 Lincoln Avenue, was sworn. She stated that her office has had several conversations with Frank Katz and there is no legal basis for denying this lot split.

Chair Armijo understood, but they have no statement from Mr. Katz regarding this.

Commissioner Lopez asked if the issue of a legal lot of record has been addressed.

Ms. Baer confirmed from Mr. Patterson and Ms. Brennan's review they believe it establishes the authority of the applicant to pursue the lot split.

Chair Armijo asked if this complies with Chapter 14.

Ms. Baer explained that Chapter 14 does not address ownership, so that was the difficulty in reviewing the case.

Chair Armijo questioned that they do not have to cap the well.

Ms. Baer stated that this is a commercial well, not a residential well, so the City is not in a position to request capping of the well. The comments in the memo apply to domestic wells. Non-domestic wells are under the purview of the State Engineer.

Commissioner Lindell asked why this is considered a commercial well.

Tracy Northington, applicant, was sworn. The commercial well was drilled by the original property owner before the establishment of the Santa Fe Basin and the property was an agricultural orchard. The owner registered the well as a commercial well. He explained that he does not control the well. There is a well share agreement with the other condominium owners and the Santa Fe Foundation.

Chair Armijo asked if there is a fire wall.

Mr. Horcasitas stated that there is a fire rated wall.

Ms. Baer verified that is correct.

Chair Armijo asked what the intention of the lot split is.

Mr. Horcasitas said the only plans are to divorce from the condos and there is no intention of further building.

Chair Armijo said if they desire to build further what is plausible.

Ms. Baer explained that RCA allows 8 units per acre so they would be allowed five units on this property. That is the maximum without looking at the size of the units and the setbacks. She noted that the Committee can make a condition that there is no further building allowed.

Chair Armijo asked if this is a contributing building.

Mr. Horcasitas stated that it is a contributing building and has been renovated, but that is discussion for another time. If there were work to be done they would have to go through Historic, zoning, and fire approvals. He said with all due respect they are not talking about zoning or requests for more building.

Chair Armijo expressed concern for what is in the best interest of the public if they allow a lot split.

Commissioner Lindell said if this is split if it will be considered a single family residence or a condo.

Mr. Horcasitas stated that it will be a single family residence with a guesthouse.

Commissioner Lindell referred to a plat from 2005 that shows additional units.

Mr. Northington explained that they have reserved development rights to build two additional units on the property. There are no plans to do development and he would like to sell this as a single piece. The application stems from the fact that the driveway easement to the back has had some costs and he has had to share the cost of those improvements although the driveway does not serve his property. This is the main reason for the lot split and getting out of the condo association. He added that they could build regardless of this approval, but there is no way they would get five units.

Chair Armijo asked if the two additional lots owned by Virginia have the same access to the rear under the same designation.

Ms. Baer replied yes. The older lady that owns the house adjacent to the open space purchased it to keep it that way.

Chair Armijo asked if the Fire Marshal took into account the possibility that there could be 16 units back there.

Barbara Salas, Fire Marshal, did not consider this. She explained that when they look at the lot split they are assuming the applicant will build, but without knowing what the applicant will build they cannot make a determination. She said if there is building proposed they would have to come up to code.

Chair Armijo stated that when the Committee grants lot splits they do have in mind what is in the best interest of the public. He added that whether they grant the lot split or not the applicant could build.

Ms. Salas said the concern would be that the applicant does not have the 20 foot width and the length would not be adequate so they would have to have a turnaround.

Ms. Baer said if they were looking at a lot split for the other property where some development might be occurring they would look closer at the access. This lot split does not change anything existing.

Chair Armijo asked how this will change the access.

Ms. Baer stated that the access is what it is and will not change whether the lot split occurs or not. In the future they would have to know what they are proposing and would need to know that the City standards could be met. She said they require the applicant to meet city standards prior to development.

Chair Armijo expressed concern that they are land locking the applicant if this is not addressed.

Ms. Salas pointed out that they can only enforce the code when there is building taking place and that is why they place notes on the plat so everyone knows the restrictions.

Mr. Weingart clarified that the two lots are not part of the condo association, although they are part of an agreement for access to the road.

Ms. Stewart said the applicant does not reside in that residence and it is now being managed by another company, so it is still being managed. She asked for available documentation about the application for the short term rental. She does not recall any notification regarding the short term rental.

Mr. Northington clarified that they have only rented the home twice this year. He said this is a vacation home for his family and he stays there when he is in Santa Fe on business. There is a legal easement that makes a road to serve all the units in the back. His understanding was that there was a limitation on the number of units served by the road.

Commissioner Lopez moved approval of Case SP-2008-21 with the staff recommendations and adding a condition that there is clarification on the

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commercial well, Commissioner Lindell seconded the motion which passed by unanimous voice vote.

E. NEW BUSINESS

1. **Case #SP 2008-23. Larry Sparks Lot Split.** Rob Rieken, Southwest Mountain Surveys, agent for Larry K. Sparks, requests plat approval to divide 9.97 acres into two tracts. The property is located at 9-A and 9-B, North El Rancho Road and is zoned R-1 (Residential, one dwelling unit per acre) Mountainous Terrain & Archaeological Review District. (Chris Martinez, case manager)

This item was postponed per approval of the agenda to January 8, 2009.

2. **Case #SP 2008-24. Estate of David Davenport Lot Split.** Mitchel Noonan, Southwest Mountain Surveys, agent for Estate of David Davenport, requests plat approval to divide 7.56 acres into two tracts. The property is located at Brownell-Holland Road and is zoned R-1 (Residential, one dwelling unit per acre) Mountainous Terrain District & Archaeological Review District. (Chris Martinez, case manager)

Chair Armijo disclosed that he built this home in 1991 as he was a supervisor for Wolf Corporation. He has had no contact with the owner since that time.

Commissioner Lindell appreciated the disclosure, but felt that it was okay for Chair Armijo to hear the case. Commissioner Lopez agreed.

Chris Martinez presented the staff report prepared November 24, 2008 which is incorporated herewith to these minutes as Exhibit "2."

Staff recommends approval based on the conditions included in the staff report.

Chair Armijo asked if there is a problem with the error that was advertised on the case caption.

Ms. Baer stated that there is not a problem with the way it was advertised.

Public Hearing

Mitch Davenport, Southwest Mountain Surveys, 1114 Hickox Street, was sworn. He represented Ann Davenport. He asked to discuss the capping of the private domestic well. He said they have worked with Dave Davenport on the access to the property.

Warren Thompson, Tano Compound, represent Shirley MacLaine, was sworn. He said his client is concerned with the safety of the road and does not object to the lot split. She wants the safety issues addressed prior to the construction of anything further.

Dave Davenport, 190 Brownell Howland Road, was sworn. He said originally this was a piece of property that his grandparents acquired and the pieces have been sold off or gifted off. His father would not be pleased to see this. Yesterday, he met with Christopher Webster who will purchase the lot that would be split off. Mr. Webster

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City of Santa Fe, New Mexico

Exhibit E

PHOTOGRAPHS



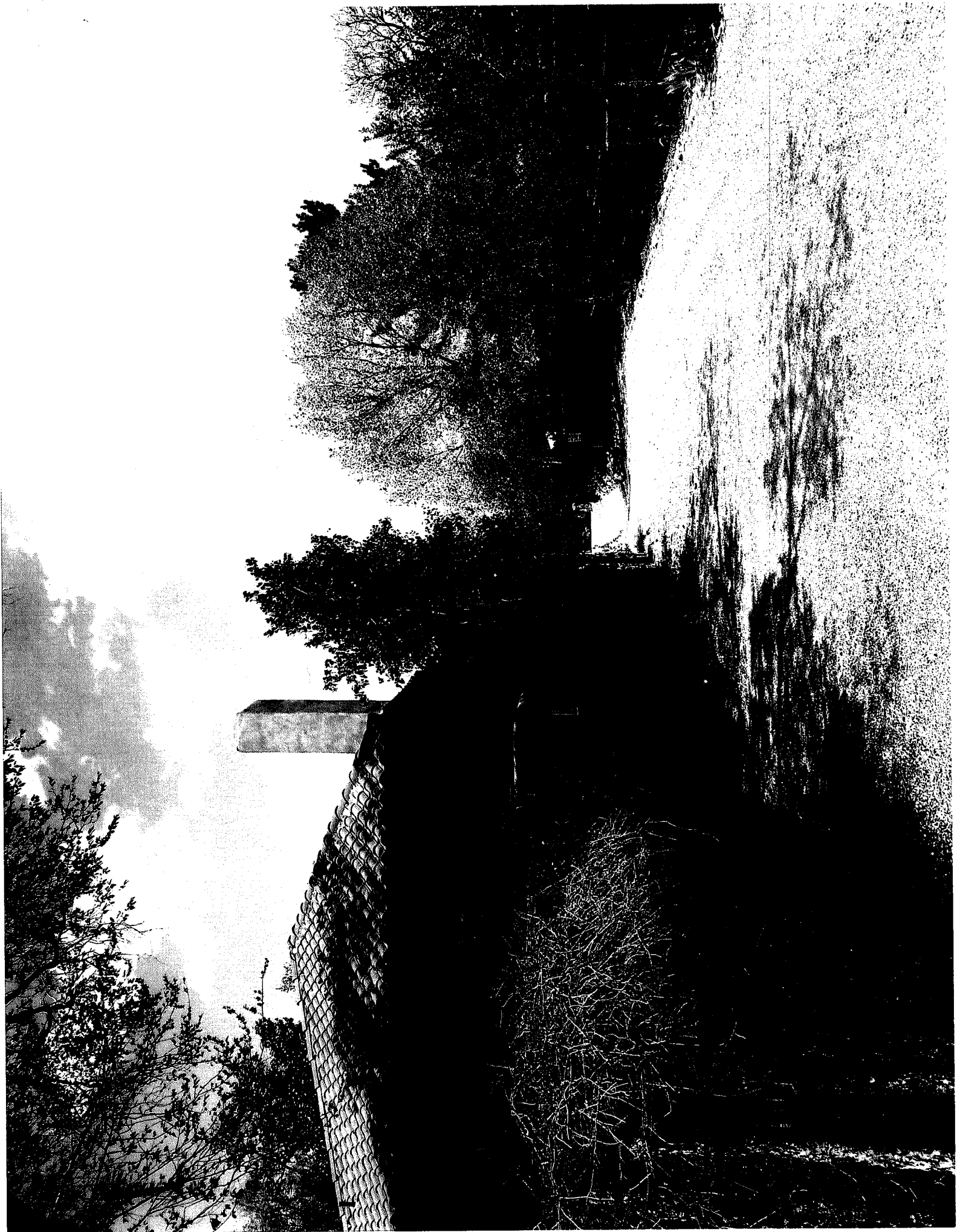
NOTICE
Construction

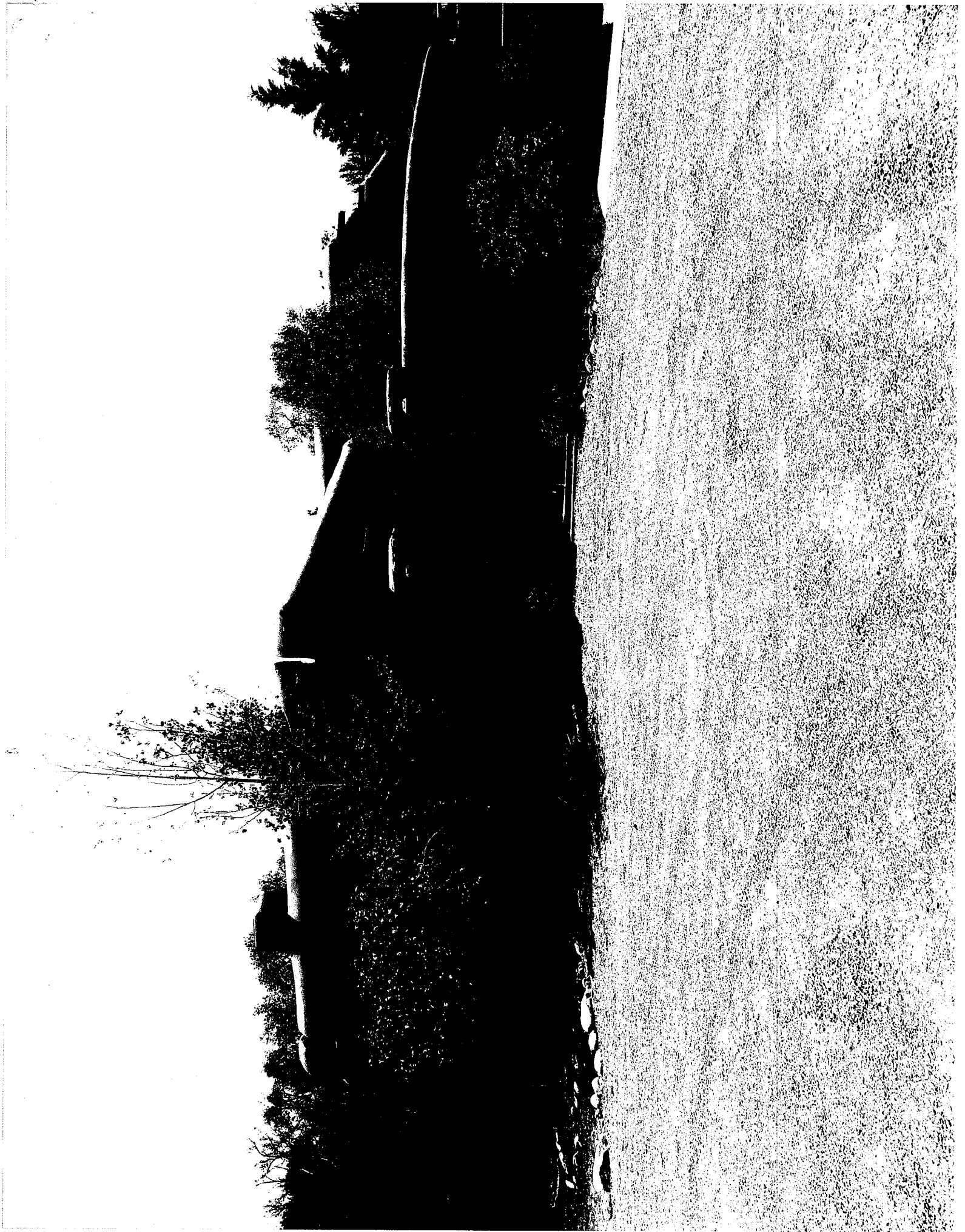
Leave
No
Litter











Replat of Plat and Plans
for

East Alameda Compound Condominium

Previously known as 540 East Alameda Compound
Tract B-2, Santa Fe County, New Mexico
1,7148 Acres
74,696 square feet

The intent of this replat is to show the current configuration of the existing units and supersede the plat recorded in Plat Book 709, page 008, which was filed without proper authorization.

Dedication

The foregoing Replat of Plat and Plans for East Alameda Compound located at 540 East Alameda Santa Fe, New Mexico, is hereby dedicated to the public use of the State of New Mexico, and in accordance with the wishes of the undersigned.

Owner's Consent

The undersigned is the President of East Alameda Compound Condominium Owners' Association, Inc., the association of the owners of units in the East Alameda Compound Condominium, which was formed to own, manage, operate, maintain, and improve the East Alameda Compound Condominium, and in accordance with the wishes of the undersigned, the President hereby consents to the replating of the East Alameda Compound Condominium, and in accordance with the wishes of the undersigned, the President hereby consents to the replating of the East Alameda Compound Condominium, and in accordance with the wishes of the undersigned, the President hereby consents to the replating of the East Alameda Compound Condominium.

John W. Frick, President

East Alameda Compound Condominium Owners' Association, Inc., a New Mexico Not-for-Profit Corporation

STATE OF NEW MEXICO

COUNTY OF SANTA FE

Notary Public

My Commission Expires

2014 by

John W. Frick, President

My Commission Expires

2014 by

John W. Frick, President

My Commission Expires

2014 by

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2014 by

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My Commission Expires

2014 by

John W. Frick, President

PROPERTY OWNER INFORMATION

ORIGINAL APPLICANT SEEKING VACATION OF LOT SPLIT

TRACT B-2-1

Unit 7 and Reserved Development Right to Construct 7A and 7C

ALAMEDA TENANTS IN COMMON:

Co-Managing Tenants: Christopher R. Smith and Steven W. Keene:

540 East Alameda, LLC

1950 Abbott Street, Suite 600

Charlotte, NC 28203-4495

Managing Member: Christopher R. Smith

JSR Investments, LLC

8301 Venice Avenue NE

Albuquerque, NM 87122

Member: Steven W. Keene

Member: Janis K. Keene

Northington Properties, LLC

178 El Camino Campo

Corralles, NM 87048

Operating Manager: Tracy Northington

OWNERS SUPPORTING VACATION OF LOT SPLIT APPLICATION

TRACT B-2-1

Unit 7B

Janet A. Fairley and David T. Woodley

530 East Alameda Street, Unit 7B

Santa Fe, NM 87501

TRACT B-2-2

Unit 1, 2, 3, 4, 5, 6, 8

Represented by: East Alameda Compound Condominium Owners' Association, Inc.

Exhibit '3'

FELKER, ISH, RITCHIE & GEER, P.A.

MARIANA GRISWOLD GEER, Esq.

ATTORNEYS AT LAW
911 OLD PECOS TRAIL
SANTA FE, NEW MEXICO 87505

Telephone: (505) 988-4483
Telefax: (505) 983-4876

May 6, 2014

Summary Committee
Land Use Planning
City of Santa Fe, N.M.

Re: East Alameda Compound Condominium

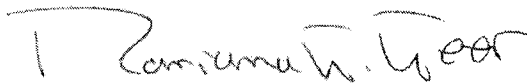
Dear Committee Members:

I write to you on behalf of the East Alameda Compound Association. The Association supports the submittals of the applicants in this matter.

The Association has reviewed and approved the Replat of Plat Plans for East Alameda Compound Condominium (the "Condominium"). This Replat re-combines the two lots into a single property which comprises the Condominium.

The Plat of Lot Split for 540 East Alameda Compound Condominium, (instrument 1578941), which split the Condominium into two pieces, was made without proper authority by the owners and should never have been recorded. The Association never approved the Plat of Lot Split and agrees that it should be vacated.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mariana G. Geer", written in a cursive style.

Mariana G. Geer

cc: Amy Kieffer



STREET ADDRESS
200 WEST MARCY STREET
SUITE 129
SANTA FE, NM 87501

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Eric M. Sommer

Jack N. Hardwick
Kurt A. Sommer
MacDonnell Gordon
Tracy T. Howell

Jeremy R. Jones
Mark Kriendler Nelson
Jacqueline Berg
Patrick D. Barry

Of Counsel
J. Michael Hyatt
Cheryl Pick Sommer
Robert P. Worcester

Joseph A. Sommer
(1922 - 2006)

April 17, 2014

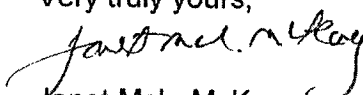
By email
Rachel Winston
The Winston Firm, P.C.
508 West Cordova Road
Santa Fe, NM 87505

Re: Vacation of Lot Spit Plat, East Alameda Compound Condominium

Dear Ms. Winston:

On behalf of my clients Janet Fairley and David Woodley, owners of Unit 7B at 540 East Alameda, of the East Alameda Compound Condominium, we support the vacation of the plat recorded Book 709, page 006.

Very truly yours,


Janet McL. McKay

cc: Janet Fairley and David Woodley

APPLICANT/AGENT INFORMATION

John Patterson
The Rodey Law Firm
201 3rd St NW #2200,
Albuquerque, NM 87102
Phone: (505) 954-3921
Email: jpatterson@rodey.com

Rachel L. Winston
The Winston Firm, P.C.
508 West Cordova Road
Santa Fe NM 87505
Phone: (505) 819-3731
Email: rachel@thewinstonfirm.com

AGENT AUTHORIZATION

Northington Properties, LLC, a New Mexico limited liability company as to an undivided interest, 540 East Alameda, LLC, a New Mexico limited liability company as to an undivided interest, and JSR Investments LLC, a New Mexico limited liability company as to an undivided interest, as Alameda Tenants-in-Common do hereby authorize John Patterson of the Rodey Law Firm and Rachel Winston of The Winston Firm to act as agent for each member of the TIC in front of the Summary Committee as specifically requested on the attached Vacation of Lot Split application.

With authority granted in the Second Amendment to the Tenant in Common Agreement, this authorization is executed and delivered in the name of and on behalf of the Tenancy as of March 28, 2014.

540 East Alameda, LLC,
a New Mexico limited liability company

By: 

Christopher R. Smith, Managing Member
Co-Manager of Alameda Tenants-in-Common

JSR Investments, LLC,
a New Mexico limited liability company

By: 

Steven W. Keene, Member
Co-Manager of Alameda Tenants-in-Common

