



Agenda

DATE 7/12/12 TIME 2:00
SERVED BY Geraldine Gualberto
FILED BY [Signature]

SUMMARY COMMITTEE
Thursday, August 2, 2012 - 11:00am
City Council Chambers
City Hall 1st Floor - 200 Lincoln Avenue

- A. ROLL CALL**
- B. APPROVAL OF AGENDA**
- C. APPROVAL OF MINUTES – July 5, 2012**
- D. OLD BUSINESS**
- E. NEW BUSINESS**

1. **Case #2011-117. Pendergrass Lot Split.** Southwest Mountain Surveys, agent for Richard D. Pendergrass, requests plat approval to divide approximately 1.00 acre into two residential lots. The property is located between Agua Fria Street and Montaña Street and is zoned R-5 (Residential-5 dwelling units per acre). (William Lamboy, Case Manager)
2. **Case #2012-068. Constance Durand Lot Split.** Albert Durand, agent for Constance Durand & River Canyon LLC, requests plat approval to divide approximately 1.23 acres into two residential lots. The property is located at 1463 Upper Canyon Road, and is zoned R-2 (Residential – 2 dwelling units per acre). (William Lamboy, Case Manager).

- F. BUSINESS FROM THE FLOOR**
- G. STAFF COMMUNICATIONS**
- H. MATTERS FROM THE COMMITTEE**
- I. 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
August 2, 2012

| <u>ITEM</u> | <u>ACTION</u> | <u>PAGE</u> |
|--|------------------------|--------------------|
| CALL TO ORDER/ROLL CALL | Quorum | 1 |
| APPROVAL OF AGENDA | Approved | 1 |
| APPROVAL OF MINUTES – JULY 5, 2012 | Approved | 1 |
| OLD BUSINESS | None | 2 |
| <u>NEW BUSINESS</u> | | |
| <u>CASE #2011-117. SOUTHWEST MOUNTAIN SURVEYS, AGENT FOR RICHARD D. PENDERGRASS, REQUESTS PLAT APPROVAL TO DIVIDE APPROXIMATELY 2.00 ACRE INTO TWO RESIDENTIAL LOTS. THE PROPERTY IS LOCATED BETWEEN AGUA FRIA STREET AND MONTANO STREET, AND IS ZONED R-5 RESIDENTIAL 5 DWELLING UNITS PER ACRE.</u> | Postponed to 10/04/12 | 2-12 |
| <u>CASE #2012-068. CONSTANCE DURAND LOT SPLIT. ALBERT DURAND, AGENT FOR CONSTANCE DURAND & RIVER CANYON LLC, REQUESTS PLAT APPROVAL TO DIVIDE APPROXIMATELY 1.23 ACRES INTO TWO RESIDENTIAL LOTS. THE PROPERTY IS LOCATED AT 1463 UPPER CANYON ROAD, AND IS ZONED R-2 (RESIDENTIAL – 2 DWELLING UNITS PER ACRE)</u> | Approved | 12-17 |
| BUSINESS FROM THE FLOOR | None | 17 |
| STAFF COMMUNICATIONS | None | 17 |
| MATTERS FROM THE COMMITTEE | Information/discussion | 18 |
| ADJOURNMENT | | 18 |

**MINUTES OF THE MEETING
OF THE CITY OF SANTA FE
SUMMARY COMMITTEE
August 2, 2012**

A regular meeting of the City of Santa Fe Summary Committee, was called to order by Angela, Chair, on Thursday, August 2, 2012, 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

MEMBERS EXCUSED:

Angela Schackel-Bordegary

OTHERS PRESENT:

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 Commissioner Harris, to approve the Agenda as published.

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

C. APPROVAL OF MINUTES – JULY 5, 2012

MOTION: Commissioner Ortiz moved, seconded by Commissioner Harris, to approve the minutes of the meeting of July 5, 2012, as submitted.

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

D. OLD BUSINESS

There was no Old Business.

E. NEW BUSINESS

1. **CASE #2011-117. SOUTHWEST MOUNTAIN SURVEYS, AGENT FOR RICHARD D. PENDERGRASS, REQUESTS PLAT APPROVAL TO DIVIDE APPROXIMATELY 2.00 ACRE INTO TWO RESIDENTIAL LOTS. THE PROPERTY IS LOCATED BETWEEN AGUA FRIA STREET AND MONTANO STREET, AND IS ZONED R-5 RESIDENTIAL 5 DWELLING UNITS PER ACRE.**

A Memorandum prepared July 20, 2012 for the Summary Committee Meeting of August 2, 2012, 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."

Recommendation: The Land Use Department recommends approval with the Conditions of Approval as outlined in this report [Exhibit "1"].

Public Hearing

Gabriel Pacheco, Southwest Mountain Surveys, agent for the owner, was sworn. Mr. Pacheco said he spoke with his client and he is in agreement with the conditions of approval.

Speaking to the Request

Marc Choyt, 912 Baca was sworn. Mr. Choyt said he owns the property to the west of the Applicant, and has lived there for 20 years. He said, "Probably about 12-14 years ago before Mr. Pendergrass put the current structures on the property, they are multi-story dwellings and completely uncharacteristic of the entire neighborhood, and somehow he got them through. And if you go and visit it, you'll see there's nothing in Casa Alegre or anything like what he put in there. When I was living there, I actually got 30 signatures from the neighborhood that opposed these structures, so that was over-ridden. And I would just like to point out that if this been in another

neighborhood, such as a neighborhood on the east side, such dwellings would not have been put in without the consideration of the neighborhood, because the building and the architecture of the neighborhood would have been representative and adhered to and respected."

Mr. Choyt continued, "One of the critical issues, since that time, and this has come up before your board 3-4 times in the past, my neighbors Percy and Larry Vigil can verify this, is there is a road between Mr. Pendergrass's apartments that goes out to Agua Fria. So what's been going on, in each of these cases, is that his tenants go and use the road the connects from both apartment buildings to Agua Fria, and if you look on the map, you'll see that, if you look on the plot. The problem is that...."

Chair Harris asked Mr. Choyt to approach the Committee and Identify where he [Choyt] lives to the west and where these structures are located on the map in relation to the subject property. Before Mr. Choyt approached, Chair Harris clarified that this Committee is considering a lot split to create Tract J-1B and Tract J-1A.

Mr. Choyt said, "I'm right here 'here,' wait a second, I'm just to the immediate east of the lot split."

Chair Harris said, "Now here's the north arrow, so this runs basically north-south, so east would be..."

Mr. Pacheco said, "I have a picture here that's showing the cul de sac that's at the end of the road, where the road, the access comes up. So the cul de sac's down 'here.' That would be this cul de sac up 'here'."

[STENOGRAPHER'S NOTE: Although the photograph was presented to the Board by Mr. Pacheco, a copy of the photograph was not entered for the official record.]

Mr. Choyt said, "I'm right 'here'."

Chair Harris said then you are to the east.

Mr. Choyt said, "I'm right 'here.' This is my lot. Choyt."

Chair Harris asked the location of the structures to which Mr. Choyt is referring.

Mr. Pacheco said, "They're sitting on this lot right 'here'."

Chair Harris said, "That's what I was wondering, because this plat does not indicate any structures, and indicates an old foundation and... [Mr. Choyt interrupted Mr. Harris] Your lots are vacant, and that's what I wanted to verify."

Mr. Pacheco said, "Mr. Pendergrass does own 'this' lot but that was a previous platting."

[STENOGRAPHER'S NOTE: Mr. Choyt's remarks here are not completely transcribed because he was talking over Mr. Pacheco. He said something about buildings sending traffic down 'this' road all the time to Agua Fria.]

Mr. Choyt said, " 'This' is where the multi-story buildings are which were opposed by the neighborhood. 'This' is where the easement goes out to Agua Fria Street. 'This' is where the traffic flows from these multi-story buildings out to Agua Fria Street every day. 'This' is where I improved the road and my neighbors, the Vigils, have been improving the road for decades, and this has been an issue for 3 or 4 times previous, but it's never been resolved. Because this is a private easement, and his tenants use the.."

Chair Harris asked Mr. Choyt to step back to the podium, saying he now understands the location of the properties.

Mr. Choyt said, "What I would like to point out here, is that, in my view, this issue has been raised to Mr. Pendergrass over and over and over again by the neighbors, and we have raised this issue of us maintaining the road and his tenants in the road, this is a private easement. He has never. I repeat, he has never in good faith addressed this issue. And so, I don't understand why, or I don't really feel inclined, as much as I appreciate, and from the City, and I believe in it, in this situation, because of the lack of good faith Mr. Pendergrass has shown as a neighbor, I'm not inclined to support this lot split. I am not inclined because he has not resolved the central issue to the lot split that has come up over and over and over again."

Chair Harris thanked Mr. Choyt for his statement.

Percy Vigil, was sworn. Ms. Vigil said she lives to the west of the subject property. She said, "What Marc Choyt has stated is correct. We do also maintain the road. It's an easement we got over 30 or so years ago. My family owned the property adjacent to where we live currently. However, our issues are the tenants that Marc Choyt [Pendergrass?] has living there now. My husband has approached the tenants... the tenants on several occasions as to the speed they're using on that small road. The tenants have the ability to use the road that is paid off to Montano Lane that goes off to Barela Lane to use, and I don't understand why they choose or select to use the small easement that we have."

Ms. Vigil continued, "We have, in several meetings before this with Richard Pendergrass agreeing to and we were allotted by the city to close the small easement after a certain time in the evening, after... I guess after dark if you will, to just close the road which is a private easement and just close off the traffic that flows through there, and I guess we will have to do that Marc eventually."

Ms. Vigil continued, "But, my question was, what do they plan to do with this lot split or do we know what type of development will arise from that."

Chair Harris asked the Agent for the Applicant if there is any indication of what is to be constructed on the two lots, if the lot split is approved.

Mr. Pacheco said, "At this point, he's just going after the lot split. I have no information about any development, whether he's spoken with any architects or anything. I think right now, he's just trying to split it."

Chair Harris noted the zoning is now R-5, and Mr. Lamboy said this is correct.

Chair Harris asked Mr. Lamboy what would be allowed if the lot split were to be approved.

Mr. Lamboy said, "The lot is being split into two portions. And the, and it only would be about... the entire lot, over the entire one acre, they would be able to put in as many as 5 primary dwellings and as many as 5 guest homes.

Ms. Baer clarified that is 1 guest house per lot, unless there is further division of the property.

Mr Lamboy said, "I was addressing the density issue. If they were to develop the entire acre under R-5 conditions, if everything was perfect, they would be able to develop as many 5 dwelling units. Right now, what is being proposed is just 2 lots, and we anticipate that they could build as many as 2 primary dwellings and 2 guest houses, total."

Ms. Baer said, "So the upper lot would be, if this split is approved, the upper lot would be 0.6 acres. At a density of R-5, they could put 3 primary dwelling units on that property without splitting it further. And on the lower one, you could have 2 dwelling units. It's a little bit smaller. And then, per code, and each lot is allowed one accessory dwelling unit. That's not to say they couldn't come back and request further subdivision. If they were to do that in less than 5 years we would take them through the entire subdivision process for both lots."

Chair Harris said he heard Ms. Baer say if this were approved, the 0.6 acre would allow 3 homes to be built, plus 1 accessory structure. And then, the other lot, the 0.4 acre would allow two homes to be built plus one accessory structure."

Ms. Baer said, "It's an accessory dwelling unit that is allowed per lot. We do not limit the number of accessory structures, except by lot coverage and setback."

Ms. Vigil said, "That's currently... or perhaps like what we have now on the lots is sometimes its town homes, or another dwelling to go up... you know upwise."

Ms. Baer said, "In this Zoning District, the maximum height limit is two stories or 24 feet."

[Ms. Vigil's remarks here are inaudible.]

Chair Harris said, "Yes. I think yes, so they potentially could go up and it could be perhaps a townhouse or a condominium regime, something like that. A further lot split to get 3 dwelling units would not be required."

Mr. Choyt said, "Given the situation with the neighborhood, and given how these types of townhouses are not characteristic of the neighborhood, is there nothing that can be done to prevent these multi-story townhouses which are actually similar to what you might find south... part of St. Francis south toward the Interstate, or other parts of the City and not in our neighborhood. Is there nothing that can be done to limit those things. That's my first question. And the second question is for the zoning, regarding the lot splits, do those numbers actually take into account the easement of 22 feet, and still allow for that level of housing. Those are my two questions."

Mr. Choyt continued, "And I guess, third would be, I don't really feel like the burden of us having to put a gate and having to put some kind of chain across the easement going out to Agua Fria is really in any manner an adequate solution to this ongoing problem. It just does not cut it. Maybe the City would have to do something else, or there would have to be some kind of structure, because Mr. Pendergrass has not shown any kind of incentive or a good faith effort to deal with this problem. So, in approving the lot split, it's actually condoning his actions which have not been adequate in the eyes of the people who are most affected by them, mainly myself and the Vigils and also other parts of their family that also share that easement that aren't necessarily here, but certainly would agree with how we feel."

Chair Harris noted that once the Public Hearing is closed, the Committee will discuss the case, and members of the public will not be allowed to be part of that discussion.

Ms. Baer said this is correct. However, the Committee could reopen if it so desired, or ask questions of the public, but generally the public gets their chance to speak during the Public Hearing portion and then that is closed.

The Public Testimony Portion of the Public Hearing was closed

Questions and Comments from the Committee

Commissioner Ortiz said, "Realizing that this is a simple lot split, I understand what the public has said about that access road, and that concerns me a bit, because there always seems to be issues, and I'm not willing to say that I want to approve this. But, on the other hand, it is a lot split and I think at some point, and maybe staff could correct me on this, if they come back to try and develop, of course they're going to have to come back through the whole process again in this Committee or the Planning Commission to see all these items. Correct."

Ms. Baer said, "Not necessarily. It could be a straight building permit if the amount of development is under 10,000 sq. ft. So, they could come back and ask for a building permit to build 3 units that are 1,000 sq. ft. each, or 3,000 sq. ft. each if they fit, as long as they complied with all the other requirements, they could go straight to building permit. Further subdivision would come back to either this Committee if it's more than 5 years, or to the full Planning Commission for a subdivision approval if it's less than 5 years."

Commissioner Ortiz asked Mr. Pacheco if this is the access people have been using to get there, or do they come off Montano Street. He said it sounds like they are really using this particular area.

Mr. Pacheco said there is a paved cul de sac to the South of the properties, where the access easement "is coming from." He has no clue as to why people choose to use the dirt road instead of the paved road. He said the problem could be resolved by putting up signs saying, "Private Property, Do Not Enter." He said, "There is a gate right there where Mr. Pendergrass's easement ends and it turns toward the east to go to Agua Fria. And there is a gate there. When I was out there, I saw no signage saying private road or do not use or something."

Chair Harris said as he reviewed the file, his questions deal with access. He said, historically, noting the document mentions the granting of an easement from 1951 for a common entrance. He said the portion onto Agua Fria remains 15.5 feet in width which does not meet City standards. He said, "It seems to me, that the City of Santa Fe granted a concession of sorts to those owners along the 15.5 ft. that would allow them to put a gate there to close it off, and I assume the Fire Department really does not... typically the Fire Department wants a minimum of a

20 ft. access easement. So I would assume that the Fire Department, in an emergency would approach along Montano, I mean Barela and then Montano. Did that come up at all Ms. Baer."

Ms. Baer said it didn't come up the discussion of this lot split. She said the Fire Department has certain requirements, which are 20 ft, but they can go down to as little as 16 ft., but that's also based on further development, so they would approve further development only with certain concessions. I'm not aware of any agreement that the City made. I'm not saying there wasn't, I'm just not aware of it, or what the circumstances of that agreement might have been, and we would have to further research on what sort of easement, if it's an easement, would allow people access to Agua Fria, and whether that's for public use or not."

Chair Harris said the Plat references "common entrance," and he doesn't know, but again that 15.5 ft., historically, has been along kind of the eastern boundary of the Pendergrass property. So, to me, the common entrance was designed to serve that property historically. Is there any desire on the part of yourself, Mr. Choyt, or the Vigils or anybody else that is affected by this 15.5 ft. that goes onto Agua Fria. Is there any desire to have a public street there, or would you just as soon leave it at 15.5 ft. and essentially have a private road. Please come up. Please."

Ms. Vigil said they approached the City at one point to see what it would take to maintain that road, to bring it up to standard, and the City advised them that they would have to bring it up to Code, but they couldn't afford to do this as private citizens. She said, with regard to the Chair's question, she thinks that would just make it accessible for other people to come and use that as a main "vein if you will," to use that little road. She said as it is, the tenants drive very fast, and they have small grandchildren that ride their bicycles. She said they are constantly advising "them" that is the case.

Chair Harris said Mr. Pacheco said there already was a gate.

Ms. Vigil said there isn't a gate and she doesn't know what he is talking about.

Mr. Pacheco said there is not an existing gate, but there is a an opening in the fence of about 30-40 feet.

Chair Harris said it doesn't seem as if there is a gate and nothing on the Plat, so he assumes there is no gate. He said he hears two concerns from Mr. Choyt, and somewhat from Ms. Vigil. He said the principal concern has to do with the amount of traffic that comes from the Pendergrass property and perhaps other people in the neighborhood as well. He assumes the connection to Agua Fria is shorter and easier, commenting we are Americans and typically will take a short cut if we can. He said Ms. Vigil is correct that bringing the road to standard would be the

City's position and it would be expensive. He said perhaps there should be a way to restrict that with a gate or through signage, commenting he doesn't believe the signage would control the traffic. This is one issue.

Chair Harris said the second concern he hears is Mr. Choyt's concern about the appropriateness of the existing development being two-story structures. He said that might be what a future landowner or Mr. Pendergrass would propose. He said, in answer to Commissioner Ortiz's question, unless it met certain parameters, it most likely would just go through the building permit process and R-5 Zoning would allow a maximum height of 24 ft.

Chair Harris said Ms. Vigil probably should understand that if they don't split this lot, there could be up to 5 dwelling units and then 1 accessory dwelling unit on the lot if it were not to be split, so potentially there could be two-story homes on the site in any event.

Chair Harris said, "Also, as a Summary Committee, I don't believe it is our place to change those height requirements on a particular piece of property. Is that correct Ms. Baer."

Ms. Baer said that is correct.

Chair Harris said, "So that's outside of our purview. However, I do think that the traffic issue, particularly since there are requirements for dedication of easements, is within our purview. I don't think, and I don't know the language of the Turley document from 1951. It does say 'common entrance,' and that perhaps would allow the traffic that has occurred and could continue to occur without another condition. Again, Ms. Baer. I'm looking to staff because I want to make sure we get this right."

Ms. Baer said staff would be happy to follow up on this, and if Mr. Choyt and the Vigils volunteered Mr. Lamboy as the contact. She said staff can look to see if they have any more information on the nature of that easement. She said, "However, if it's a common entrance, it just depends on who, if it's explained anywhere, or further clarified, whom that benefits. It could be, as you say the Pendergrass property is the beneficiary of that easement, in which case, it would not be in the City's interest to allow a private party, regardless of who that is, to close that off with a gate. So, that's something we'd have to look at."

Chair Harris said Mr. Choyt said in his presentation that the City did make a concession, and he would like both Mr. Choyt and Ms. Vigil to speak to that and give more information about timing and what that may mean. He thinks it needs to be researched, noting the Plat clearly shows that the 15.5 feet abuts the Pendergrass property, so he assumes the language granting that

common entrance would allow that to go forward. However, he also believes a condition could be placed by this Committee that would change that and allow that 15.5 ft. to be gated.

Ms. Baer said, "Mr. Chair, that's really not the matter that is before the Committee today. Really, the only matter is the lot split and we would have to do more research, including checking with the Fire Department to see if they would be amenable to that, unless something has already happened and I'm just not aware of it."

Chair Harris asked Mr. Choyt and Ms. Vigil to provide more background on what you've heard or been told in the past.

Ms. Vigil said at the last meeting regarding this exact matter with regard to the Pendergrass property, it was 'allotted' that Mr. Choyt would be able to close off the access to the property as far as the easement, to prevent such traffic going through in the evening hours. Responding to the Chair, Ms. Vigil said this was in a meeting with the City.

Mr. Choyt believes this issue was clearly resolved and understood in the way stated by Ms. Vigil. He recalls distinctly that when he purchased the property that he had easement to his property and that the easement was grant to the Vigils and an easement also was granted to Lucy Tapia, deceased, which is the first property on the road. He said they did a complete and thorough title search to get clear title, noting they had to contact 80-90 different people because the title wasn't clear. He said the easement arose as one of the issued. He said, in his mind, it's very very clear, even in context to what the City has told them in the past, that this is a completely private easement. He agreed with the Chair, that someone immediately to the west, and there was a multi-home dwelling there, that person most certainly would take the exit out to Agua Fria which is 750 feet as opposed to going 1/4 mile to Montano and down Barela Lane. He said if this is approved, there would be no recourse for him to do anything about people speeding and no one maintaining the road, which would fall on him and the Vigils. He said the whole situation would then be untenable.

Ms. Vigil said, "It's probably irrelevant, but back in the seventies, when I got the easement, this is when we were buying the property which we are now located, I had a copy of the original easement. I got this from my aunts, and the last person to sell the easement was Vera Zamora. It took me at least 5 trips to her house, because she didn't want to find the easement. She thought we were asking her for a piece of the property, and of course the easement does actually mean that, almost, in her mind. But the easement in her mind thought that of course we were getting a piece of her property. But once they deceased, the last one being Lucy Tapia, they were all relatives of mine... the reason for this easement was because there was no access to our property

at the time. The road actually ended where my property now is. There was no access through Montano which now the access is now paved. That was the whole purpose of the easement at that time. So that was the purpose of this whole easement at that time."

Chair Harris said seems we have a long-standing situation that has become a problem and this is the time to address it, make it better and to clarify the status of that easement, but we also need to hear from the Fire Department about its point of view in serving structures at the site. He said 750 feet in an emergency is what they would look at as opposed to 1/4 mile in an emergency.

Chair Harris doesn't believe we can act on this now, and he would like to postpone this case to the next meeting so staff can look into this matter.

Commissioner Ortiz said he would agree, because he needs more information to make a decision.

Ms. Baer said the Committee could postpone to the next meeting or to another meeting, a date certain, then it would not be necessary to re-advertise or re-notice. She said staff could investigate the easement question and have an answer by the next meeting, and would welcome the help and participation from the neighbors who have more information about this than they do. She said they would look at the last time the Pendergrass property came up for a public hearing, but it's probably the one below it. They could bring this information back to the next meeting.

MOTION: Commissioner Ortiz moved, seconded by Commissioner Harris, to postpone Case #2011-117, the Pendergrass Lot Split, to the meeting of September 6, 2012.

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

Mr. Choyt indicated he has difficulty with the date, because he will be out of town and can't attend the hearing.

Chair Harris asked if this request has been postponed several times at the Applicant's request.

Ms. Baer said this particular case was not noticed until now, and this is the first time it's been on an actual agenda, so it has not been postponed. The application was submitted some time ago, but we weren't ready to go forward, so this is the first time it has appeared on an agenda.

MOTION: Commissioner Ortiz moved, seconded by Commissioner Harris, to reconsider the previous action to postpone this case to the meeting of September 6, 2012..

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

MOTION: Commissioner Ortiz moved, seconded by Commissioner Harris, to postpone Case #2011-117, the Pendergrass Lot Split, to the meeting of October 4, 2012.

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

2. **CASE #2012-068. CONSTANCE DURAND LOT SPLIT. ALBERT DURAND, AGENT FOR CONSTANCE DURAND & RIVER CANYON LLC, REQUESTS PLAT APPROVAL TO DIVIDE APPROXIMATELY 1.23 ACRES INTO TWO RESIDENTIAL LOTS. THE PROPERTY IS LOCATED AT 1463 UPPER CANYON ROAD, AND IS ZONED R-2 (RESIDENTIAL – 2 DWELLING UNITS PER ACRE). (WILLIAM LAMBOY, CASE MANAGER).**

A Memorandum prepared July 20, 2012, for the Summary Committee Meeting of August 2, 2012, with attachments, to the Summary Committee, from William Lamboy, Senior Planner, Current Planning Division, is incorporated herewith to these minutes as Exhibit "2."

A letter dated August 1, 2012, to the Current Planning Division, from Eileen Fresquez, is incorporated herewith to these minutes as Exhibit "3."

A letter dated July 26, 2012, to the City of Santa Fe Land Use Department, Current Planning Division, from Laurence Steven Taub, Esq., on behalf of Belle M. Carpenter, in support of this request, is incorporated herewith to these minutes as Exhibit "4."

A copy of the plat covenants submitted for the record by Albert Durand are on file in, and can be obtained from the Current Planning Division of the Land Use Department.

Staff Report

The staff report was presented by William Lamboy, Current Planning Division, which is contained in Exhibits "3 and "4."

Recommendation: The Land Use Department recommends approval with the Conditions of Approval as outlined in this report [Exhibit "2"].

Ms. Baer said the issue of sight visibility would be handled at the time of development and building permit.

Mr. Lamboy noted he received two letters which were distributed today and entered for the record [Exhibits "3" and "4"].

Public Hearing

Statement by the Owner

Albert Durand, 1463 Canyon Road, spouse of the Applicant, and Applicant's Representative, was sworn. He said 14 63 Canyon Road is the property which is the subject of the lot split.

Mr. Durand said, "We purchased this property in 1990 and built our own house on this property with out own hands. We lived there 8-9 years, and realized the River in this reach is unusual in that it flows year-round almost continually. The reason for that is there's two big tributaries coming into the head of the property at the eastern end of our property. And also there is a 600 ft. reach through our property where the riverbed is granite and water stays on the top even when the flows get low. The reason I'm telling you this, is we were aware there was a developable property across the River from us and that it was very large. It was 1,500 ft. long along the River. While we were building, we did a study, engineering and surveying study of our property and the adjacent property and looked at the Codes and so forth, and determined that the total acreage of the land across the River from us and our property, we now own both, was developable under conventional R-2 half acre zone was a total of over 6 ½ acres and was developable to 13 dwelling units. [Inaudible] we found reduced that by 25% so the entire property was developable to 10 dwelling units and theoretically to 10 guest houses."

Mr. Durand continue, "We did enough of a study of the topography and flood maps to determine those could in fact be built. And we were pretty horrified because... after about 9 years, we were able to purchase the property across the River which increased our total acres to 6.55 acres. At the time we purchased it, we placed 50% of the land area into a perpetual wildlife conservation easement along the River and along the banks and particularly along the Adam Armijo Park border. And we did a partnership with partnership and we took out about 4,000 Siberian Elm from that property. Then we had an opportunity after a couple of years.. we were trying to determine what we could do to reduce the developability on these and survive it financially. We

arranged to sell with Upaya Zen Center, the bordering neighbor to the north of us at the western end of the property. And we sold them a little more than 3 acres for quiet medication. That 3 acres was zoned after deducting for the...."

Mr. Durand continued, "We determined that the 3 plus acres that we did sell to the Zen Center was zoned for a total of 5 dwelling units after deducting 25% of the acreage for the steep and mountainous terrain overlay district, as was required by the Code. The reason we sold it to the Upaya Zen Center was because they were willing to accept very strict development restrictions which reduced the developability and buildability of that 3 acres from 5 homes and 5 guest houses to one home and one guest house, and that guest house could not be rented. Those restrictions were imposed in the form of a deed restriction and a plat restriction when we did the lot split and some very carefully worked-out covenant restrictions."

Mr. Durand continued, "At that time, we did also restrict the access, because the Upaya Zen Center is a institution and has a lot of visitors. We restricted the access so there would be no institutional access on the fire land that we created to Canyon Road, except for emergency purposes, emergency medical and emergency fire. We worked that out with the Fire Department. We did dedicate a fire lane, including requirement for fire land signage for two fire land turnouts so that emergency vehicles could pass neighboring vehicles. We installed what we think is the first, perhaps the last very large fire hydrant at the end of that fire land, which is the westerly boundary, the property we own now, that's I believe is the only fire hydrant in the Bosque."

Mr. Durand continued, "I've been on the Neighborhood Association Board of Directors for 10-12 years, and we're all very concerned about fire, because a fire in the Bosque could literally burn us all out and destroy the entire riparian Bosque. So, at this point we now have 3.46 acres in total on both sides of the River. It's 2 1/4 on the north side of the River and 1- 1/4 on the south side of the River, approximately. The total is zoned as mentioned, if it was conventional R-2 zoning, it would be zoned for 6 dwelling units. However, because of the steep and mountainous terrain overlay, we thought it was zoned for 5 dwelling units. We found out just a couple weeks ago that the density ordinance was changed to require deducting the floodway from the acreage prior to calculating allowable density. So, we went from 5.4 to 4.4."

Mr. Durand continued, "At this point we have 2 lots on the north side of the River and we have imposed, under the plat covenants that are attached to this plat. Since this is a 3-page plat, I would like if I might to approach and give you a copy of the owners' consent covenants that we imposed on this whole 3.46 acres, that is on the upper right corner of the first page of the plat."

[STENOGRAPHER'S NOTE: Mr. Durand submitted a copy of the owners' consent covenants for the record, but then borrowed them back for his presentation, saying he would give them back to me after the meeting, but did not do so.]

Mr. Durand continued, "What we've done on the north side which is a total of 2 1/4 acres which is zoned R-2, is we put a restriction on the north side of the plat and on the south side of the plat in the Owner's Consent portion of the Plat which will be a notarized consent statement, along with the consent to impose easements and that sort of thing. And I'll just run through it. The first item is the Tract B-1 and B-2, these are the two north tracts and the both have either one house or one accessory dwelling unit, either tract may have both a house and a guest house, unless the other tract has neither a house nor a guest house. That may be little mind numbing, but what it's saying is that the only thing that is allowable on that entire tract is one house and one guest house and that that house or guest house can be built on either lot and if the guest house is built on one lot and the house is built on the other, no other guest houses are allowed. So essentially, they deed plat and covenant restricted the north side to one dwelling unit. There is an alternative which may occur which we've provided for an opportunity which is the second item which says that the guest house that's allowed on the north side of the River could be changed to a small single-family guest house sized home, limited to one-story like a guest house and limit it to 1,900 sq. ft., which is 400 sq. ft. more than a guest house, and can be only a narrow band at the rear of the house against the bank. The purpose of this was to give us an opportunity to have an owner occupied home on that property rather than a guest house which is so often rented and tends to put the neighborhood in the situation with new guests and tenants the neighborhood doesn't know."

Mr. Durand said the second are the two lots on the south of the River, may have 1 dwelling units and 1 guest house. [A little text lost here on change of tape] When they began they were zoned for 10 homes, and now are at the final stage of proposing a maximum of 4, of which "one guest house, the Upaya, can't be rented. They have cut developability permanently by 60% on this property. They did install the dedicated fire lane, fire turnouts and the fire hydrant. Widened access from 15-20 feet and on that basis, the Fire Department allowed them to keep a 20 ft. access.

Mr. Durand noted a letter of support for the Application, and Mr. Lamboy noted that was handed out earlier [Exhibit "4"].

Mr. Durand said the average lot size resulting from the lot split is 0.87 acres.

Speaking to the Request

Eileen Fresquez was sworn. Ms. Fresquez said her property near the subject site. She said when she got Albert's notice she was unsure of the location of the lot split and how it would affect her. She said she spoke to Mr. Lamboy prior to the meeting who clarified where the lot split will be. She said this lot split doesn't concern her right now.

B.C. Rimbeau, 1400-A Cerro Gordo, was sworn. Mr. Rimbeau said he has some property downstream of this neighborhood. He said the flood plain is defined on the plat with a 1% flood boundary and a pending flood [inaudible] and a flood fringe. He understands there was a letter from FEMA to change the flood plain. He asked about the flood fringe and how that affects where building and development can happen.

Ms. Baer said the flood fringe is defined in City Code. She suggested he speak with R.B. Zaxus the Engineer, who can explain the definition which complex.

Chair Harris agreed, saying he has been through this process which is very complex and difficult to understand, and encouraged him to speak with Ms. Zaxus.

Responding to Mr. Rimbeau, Ms. Baer said he is not allowed to build any structures in the 1% chance event, but in some cases can have parking, but people cannot build fences or houses or anything vertical.

Chair Harris said work can be done for erosion control and such, through the City Engineer's Office.

The Public Testimony Portion of the Public Hearing was closed

Questions and Comments from the Committee

Commissioner Ortiz said he has no questions.

Chair Harris said at some point we are told that the Summary Committee deals with simple lot splits, but this isn't a simple case. He said a lot of work has been on the property by Mr. and Ms. Durand. He accepts what he finds in the documents and what Mr. Durand stated. He said a lot of work has been done to define and redefine how property can be developed, and very limited development can happen on the various properties.

Chair Harris said Paisan is part of the CC&R's when you sold to them. He asked if they have other access to their property from Canyon Road, and Mr. Durand said yes.

Chair Harris said the Fire Department issues were well thought through and addressed for emergency situations.

Chair Harris asked about discussions around mandatory hook-ups to City water and sewer.

Ms. Baer said that is standard language and means when somebody is required to be hooked up they get a report from the Wastewater Division and they make that assessment which is called a technical report.

Ms. Fresquez said she has been unable to hook up with the City sewer because it will take too much to pump it to Cerro Gordo. She said she doesn't understand how Albert's property will hook-up to City sewer.

Ms. Baer suggested she contact Stan Holland at the City, noting he would be the most knowledgeable person about this issue.

Chair Harris asked if pumps will be required, and Mr. Durand said yes, depending on the location.

MOTION: Commissioner Ortiz moved, seconded by Commissioner Harris, to approve Case #2012-068, the Constance Durand Lot Split, with all conditions of approval as recommended by staff.

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

G. BUSINESS FROM THE FLOOR

There was no business from the floor.

H. STAFF COMMUNICATIONS

There were no staff communications.

I. MATTERS FROM THE COMMITTEE

Mr. Harris said page 2 of the Memorandum provides that *Any staff conditions noted in the attached memoranda and not listed in the recommended conditions of approval have already been addressed on the plat.* He said both cases included documents from Southwest Mountain Surveys, and this was done on one of the plats but not on the other. He suggested in the future, that staff require a bold title block on the plat saying "Santa Fe Conditions," and make that clear to everyone that needs to be done.

Ms. Baer said staff will work on this, and make it clear to everyone that this has to be done.

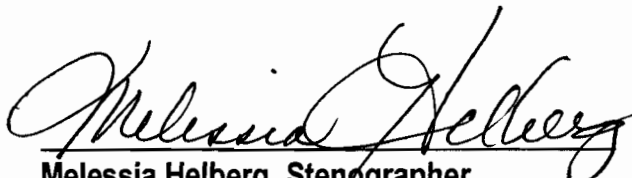
J. ADJOURNMENT

There was no further business to come before the Committee.

MOTION: Commissioner Ortiz moved, seconded by Commissioner Harris, to adjourn the meeting.

VOTE: The motion was approved unanimously on a voice vote, and the meeting was adjourned at approximately 12:40 p.m.

Michael Harris, Chair





Melessia Helberg, Stenographer


City of Santa Fe, New Mexico

memo

DATE: July 20, 2012, for the August 2, 2012 Meeting

TO: Summary Committee

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

FROM: William Larnboy, AICP, Senior Planner, Current Planning Division 

PENDERGRASS LOT SPLIT

Case #2011-117. Pendergrass Lot Split. Gabriel Pacheco, Southwest Mountain Surveys, agent for Richard D. Pendergrass, requests plat approval to divide approximately 1.00 acres into two residential lots. The property is located between Agua Fria Street and Montano Street and is zoned R-5 (Residential-5 dwelling units per acre). (William Larnboy, Case Manager)

RECOMMENDATION

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

BACKGROUND & SUMMARY

The property is zoned R-5, Residential-5 dwelling units per acre. Under optimal conditions up to 5 primary dwelling units could be constructed on one acre.

The proposed lot split would create two tracts: Tract J-1A, 1720 ½ B Agua Fria Street, containing approximately 0.40 acres; and Tract J-1B, 1720 ½ A Agua Fria Street, 0.60 acres. Both lots are vacant.

Each tract is accessed via an access easement that runs along the eastern property line and connects Agua Fria and Montano Streets. As a condition of approval of the lot split, a 22.5-foot access and utility easement is being created to allow for future widening of the existing easement (outside the Pendergrass

property) to 38 feet. Furthermore, an irrevocable offer to dedicate right-of-way along the eastern property boundary is required as condition of approval.

City water and sewer lines run within 200 feet of the property. Connection to the City's water and sewer is required. As a condition of approval of the lot split, and prior to recordation, the applicant is required to provide a financial guarantee for the extension of the sewer line; copy of the approved estimate is enclosed as **Exhibit C2**. In addition, construction of the sewer line extension is required to start prior to February 14, 2013.

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.

Staff recommends the following conditions of approval:

1. Staff redline comments will be provided to the surveyor who shall address all issues and submit the corrected plat in Mylar.
2. The developer shall add to the plat an irrevocable offer to dedicate Right-of-Way described as follows:
 - a. A 22'-6" wide area along the eastern boundary of the lots from the bend on the gravel access road south to Montaña Street.

ATTACHMENTS:

EXHIBIT A: City Staff Memoranda

1. Fire Marshal Memorandum, Rey Gonzales
2. City Engineer for Land Use Memorandum, R. B. Zaxus
3. Waste Water Division Engineer, Stan Holland
4. Water Division Memorandum, Antonio Trujillo

EXHIBIT B: Maps

1. Zoning
2. Aerial View

EXHIBIT C: Applicant Materials

1. Letter of Application
2. P. E. McGinnis Estimate for Wastewater Line Extension


City of Santa Fe, New Mexico

Exhibit A

City Staff Memoranda

City of Santa Fe, New Mexico

memo

DATE: October 27, 2011
TO: William Lamboy , Case Manager
FROM: Reynaldo Gonzales, Fire Marshal 
SUBJECT: Case # 2011-117 Pendergrass, Inc. Lot Split

Inspector Griego and myself have conducted a review of the above mentioned case for compliance with the International Fire Code (IFC) 2009 Edition. Below are the following requirements that shall be addressed prior to approval by Planning Commission. If you have questions or concerns, or need further clarification please call me at 505-955-3316.

1. All Fire Department access shall be 20' min. width.
2. Shall Comply with International Fire Code (IFC) 2009 Edition.

City of Santa Fe, New Mexico

memo

DATE: July 19, 2012
TO: Bill Lamboy, Case Manager
FROM: Risana B "RB" Zaxus, PE, City Engineer for Land Use Department
SUBJECT: Case # 2011-117, Pendergrass Lot Split

I reviewed a one-sheet Lot Split Survey Plat prepared by Southwest Mountain Surveys and dated July 8, 2011. The following review comments are to be considered conditions of approval:

- Add an additional floodplain status note referencing the February 18, 2011 Preliminary DFIRM.
- Add lot addresses (contact Marisa Struck 955-6661).



MEMO

Wastewater Management Division DEVELOPMENT REVIEW COMMENTS

E-MAIL DELIVERY

Date: October 21, 2011

To: William Lamboy, Case Manager

From: Stan Holland, P.E.
Wastewater Management Division

Subject: Case 2011-117 Pendergrass Lot Split

Connection to the City sewer system is required and shall be made prior to any new construction on the lots. Additionally, the following notes shall be included on the plat:

1. No fences, walls, or other obstructions shall be placed or constructed across or within public sanitary sewer easements.
2. Each lot shall be served by separate water and sewer services.
3. Wastewater Utility Expansion Charges (UEC) shall be paid at the time of building permit application.

Additional Comments:

1. Prior to recordation of the lot split plat the property owner shall be required to;
 - Install a public sanitary sewer line extension to the properties as approved by the City of Santa Fe Wastewater Division.
 - In lieu of installing the sewer line the owner shall provide a financial guarantee with the City for the design and installation a public sanitary sewer line extension as approved by the City of Santa Fe Wastewater Division to serve the proposed two lots.

City of Santa Fe **memo**

DATE: November 4, 2011
TO: Summary Committee
FROM: Antonio Trujillo, *A* Water Division Engineer
SUBJECT: Case # 2011-117, Pendergrass Lot Split

[X] The subject property is inside the City water service area. Water is not available without a water main extension. Extension of the water main shall comply with Chapter 25, Rule 19 of the Santa Fe City Code.

The proposed lot split as shown does not provide the 20 foot for water or 25 foot for water and sewer easement required for a water main extension.

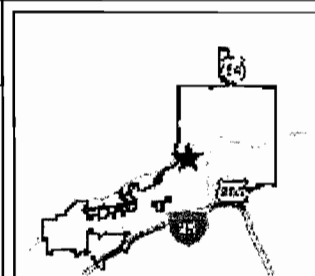
Fire service requirements will have to be determined by the Fire Department prior to development or issuance of a building permit.

cc: Tamara Baer, Planning Manager, LUD
Bill Lamboy, LUD

City of Santa Fe, New Mexico

Exhibit B

Maps



Legend

- ☒ City Limits
- ☐ Full Address Labels
- ☐ Address Points
- ☐ Parcels
- ☒ Airport Clear Zones
- ☒ Santa Fe River
- ☐ Zoning
- ☐ RR Rural Residential
- ☐ R1, (PUD) Single - Family 1du/2c
- ☐ R2, (D1), (PUD), (AC) Single - Family 2du/2c
- ☐ R3, (PUD) Single - Family 3du/2c
- ☐ R4 Single - Family 4du/2c
- ☐ R5, (D1), (PUD), (AC), HS Single - Family 5du/2c
- ☐ R7, (1), (PUD), RS Single - Family 7 - du/2c
- ☐ RCG, ROAC Compound 3du/2c
- ☐ RCK, HRCAC Compound 3du/2c
- ☒ R10 (PUD) Multiple - Family 10du/2c
- ☒ R12 (PUD) Multiple - Family 12du/2c
- ☒ R21 (PUD) Multiple - Family 21du/2c
- ☒ R33 (PUD), (AC) Multiple - Family 33du/2c



Scale: 1:875

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.

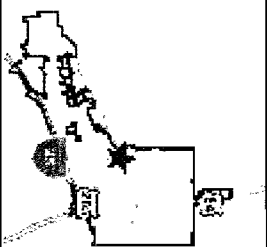
Map center: 1721757, 1700068



Pendergrass Lot Split - 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
- Full Address Labels
- Address Points
- Parcels
- Airport Clear Zones
- Santa Fe River
- Major Roads and Highways
- Other Roads and Easements
- 2011 Aerial Photography - 1 foot resolution



Scale: 1:875

City of Santa Fe, New Mexico

Exhibit C

Applicant Materials

**Southwest Mountain Surveys
1114 Hickox Street
Santa Fe, New Mexico 87505
(505) 982-9429**

July 20, 2011

City of Santa Fe
Permit and Development Review Division
200 Lincoln Avenue
Santa Fe, New Mexico 87501
Attn: Bill Lamboy

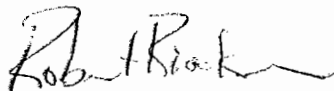
Dear Mr. Lamboy,

On behalf of our client, Richard Pendegrass, we are submitting a Development Permit Application for a Lot Split to create two residential lots from one lot.

Legal Description: TRACT J-1, T17N, R9E, S27, a tract of Land situated near Barela Lane/Agua Fria Street.

If you have any questions, please do not hesitate to contact me at the above listed number.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert K. Riecken". The signature is fluid and cursive, with the first name "Robert" and last name "Riecken" clearly distinguishable.

Robert K. Riecken
Southwest Mountain Surveys

P. E. McGINNIS & ASSOCIATES, LLC
1114 HICKOX ST.
P. O. BOX 2351
SANTA FE, NEW MEXICO 87504



**WATER & WASTEWATER SYSTEMS, GRADING AND DRAINAGE PLANS, STREETS,
 DESIGNS FOR INDIVIDUAL LOTS, SUBDIVISIONS, AND SMALL COMMUNITIES**

February 14, 2012

Mr. Stan Holland, P.E.
 Wastewater Management Division
 City of Santa Fe
 Santa Fe, New Mexico 87504-0909

Re: Pendegrass Sewer Line Extension
 1717 Montano - Santa Fe
 Cost Estimate

*Estimate approved
 for work started &
 completed prior to
 Feb. 14, 2013*

Dear Mr. Holland:

The Following is an estimate of Construction costs for the referenced sewer line extension:

| ITEM | QUANT. | UNIT | UNIT PR | AMOUNT |
|---|--------|------|---------|-----------|
| 1. 8" SDR 35 PVC SEWER LINE INCLUDING EXCAVATION, BACKFILL & COMPACTION | 465 | L.F. | \$25.00 | \$ 11,625 |
| 2. 4' DIA. MANHOLE 0 - 8' DEPTH | 1 | EA. | \$3,500 | \$ 3,500 |
| 3. SERVICE CONNECTION WITH LATERAL STUB-OUT | 1 | EA. | \$ 500 | \$ 400 |
| 4. TIE-IN TO EXISTING CITY 4' Dia Manhole 9' DEPTH | 1 | EA. | \$ 600 | \$ 600 |
| 5. TEMP. SILT FENCE | 1 | L.S. | \$ 150 | \$ 150 |
| 6. TEMP. CONSTRUCTION ENTR | 1 | L.S. | \$ 250 | \$ 250 |
| 5. TESTING (DENSITY ETC.) | 1 | L.S. | \$ 250 | \$ 250 |
| 6. TELEVISION OF NEW LINE | 1 | L.S. | \$ 600 | \$ 600 |

TOTAL ESTIMATED CONSTRUCTION COSTS \$17,375
 CONTINGENCIES \$1,700
 SURVEYING \$ 500
 ENGINEERING AND INSPECTIONS \$1,600

PROJECT COSTS \$ 21,175
 GROSS RECEIPT TAXES \$ 1,734
 TOTAL PROJECT COSTS \$ 22,909



Paul E. McGinnis
 (505) 690-1168

City of Santa Fe, New Mexico

memo

DATE: July 20, 2012, for the August 2, 2012 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.*

CONSTANCE DURAND LOT SPLIT

Case #2012-068. Constance Durand Lot Split. Albert Durand, agent for Constance Durand & River Canyon LLC, requests plat approval to divide approximately 1.23 acres into two residential lots. The property is located at 1463 Upper Canyon Road, and is zoned R-2 (Residential – 2 dwelling units 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 property is zoned R-2, Residential-2 dwelling units per acre. Under optimal conditions up to 2 primary dwelling units could be constructed on the property.

The proposed lot split would create two tracts: Tract 1, 1463 upper Canyon Road, containing approximately 0.56 acres; and Tract 2, 1465 Upper Canyon Road, 0.67 acres. Tract 1 is occupied by a single family home and Tract 2 is vacant.

The tracts are accessed from Canyon Road via a 20-foot wide access easement running along the southern property line. A 14-foot wide concrete all-weather river crossing connects two lots on the north bank of the Santa Fe River to Canyon Road. The lots across the river are also owned by the applicant. As a condition of approval of the lot split, the Fire Marshall requires that all new structures be equipped with automatic fire sprinkler systems.

In calculating allowable density, total flood way acres are deducted from the total acreage. In this case, total flood way acres account for 0.46 acres. Additionally, in accordance with 14-7.2(B)(5), *"any portion (of a parcel) which lies in the area labeled as mountainous and difficult terrain and where twenty-five percent or more of the parcel has a natural slope greater than twenty percent, multiply the result calculated in Subsection 14-7.2(B)(4) by 0.75."* Approximately 32% of the property consists of slopes exceeding 20%. Consequently, lot size has been averaged over the 3.46 acres of the 4 lots under common ownership. Under ordinary circumstances, in an R-2 district, up to 6 primary dwelling units could be developed on 3.46 acres. However, due to limitations imposed by the flood way and the Mountainous and Difficult Terrain district, no more than 4 primary dwelling units can be developed on the 3.46 acres owned by Constance Durand without rezoning.

The tracts are inside the City's service area. Connection to the City's water and sewer is required.

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.

Staff recommends the following conditions of approval:

1. Staff redline comments will be provided to the surveyor who shall address all issues and submit the corrected plat in Mylar.
2. Add address to new lot: 1465 Upper Canyon Road.
3. Revise density calculations to account for flood way acreage.
4. Revise plat language to read: No more than 4 dwelling units may be built...

ATTACHMENTS:

EXHIBIT A: City Staff Memoranda

1. Fire Marshal Memorandum, Rey Gonzales
2. City Engineer for Land Use Memorandum, R. B. Zaxus
3. Waste Water Division Engineer, Stan Holland
4. Traffic Engineering Division Memorandum, John Romero

EXHIBIT B: Maps

1. Zoning
2. Aerial View
3. 1463 Upper Canyon Road Sight Distance Plan

EXHIBIT C: Applicant Materials

1. Letter of Application

City of Santa Fe, New Mexico

Exhibit A

City Staff Memoranda

City of Santa Fe, New Mexico

memo

DATE: July 11, 2012

TO: William Lamboy, Case Manager

FROM: Reynaldo Gonzales, Fire Marshal *RDG*

SUBJECT: Case #2012-068. 1463 Constance Durand Lot Split.

I have conducted a review of the above mentioned case for compliance with the International Fire Code (IFC) 2009 Edition. Below are the following requirements that shall be addressed prior to approval by Planning Commission. If you have questions or concerns, or need further clarification please call me at 505-955-3316.

1. All Fire Department access shall be no greater than a 10% grade throughout.
2. Shall Comply with International Fire Code (IFC) 2009 Edition.
3. Shall amend plat to require automatic sprinkler systems to any new construction as per IFC so a variance on access can be granted by the fire department.
4. Any gates shall be brought up to code as per IFC prior to any construction.

City of Santa Fe, New Mexico

memo

DATE: July 3, 2012

TO: William Lamboy, Case Manager

FROM: Risana "RB" Zaxus, PE
City Engineer for Land Use Department

RE: Case # 2012-068
Constance Durand Lot Split
1463 Upper Canyon Road

I reviewed a 2-sheet original submittal and also a 4-sheet set of additional submittals. The following review comments are to be regarded as conditions of approval:

The Lot Split drawing should show the floodplain limits for ONLY the 2/18/11 FIRM and the LOMR #12-06-1488P. Remove all reference to the 6/17/08 FIRM.

Revise Surveyor's Note #6 to reference 2/18/11 FIRM only.

The Supplementary Drawing must be full size (24 by 36) and included in the set. Remove any hand-written notes from this sheet.

Provide certified topography and a slope analysis for the new lot. Slopes 30% and over must not be disturbed unless manmade. Identify manmade 30%+ slopes and provide certification from a licensed surveyor or engineer that these slopes are manmade.

Obtain address for new lot (Marisa Struck 955-6661) and add to Plat.

City of Santa Fe



MEMO

Wastewater Management Division DEVELOPMENT REVIEW COMMENTS

E-MAIL DELIVERY

Date: June 18, 2012

To: William Lamboy, Case Manager

From: Stan Holland, P.E.
Wastewater Management Division

Subject: Case 2012-068 Durand Lot Split

The subject properties are accessible to the City sanitary sewer system:

Connection to the City sewer system is mandatory and shall be made prior to any new construction on the lots.

There are no additional comments for the Applicant to address

City of Santa Fe, New Mexico

memo

DATE: July 2, 2012

TO: William Lamboy, Planning and Land Use Department

VIA: John Romero, Traffic Engineering Division Director *JR*

FROM: Sandra Kassens, Traffic Engineering Division *SK*

SUBJECT: 1463 Constance Durand Lot Split (Case #2012-068)

ISSUE

Albert Durand, agent for Constance Durand & River Canyon LLC, requests plat approval to divide approximately 1.23 acres into two residential lots. The property is located at 1463 Upper Canyon Road, and is zoned R-2 (Residential – 2 dwelling units per acre).

Existing vegetation and a sign obstruct the driver's view to the east of the existing driveway at 1463 Upper Canyon Road.

RECOMMENDED ACTION:

Review comments are based on submittals received on June 13, 2012. The comments below should be considered as Conditions of Approval to be addressed prior to final approval unless otherwise noted:

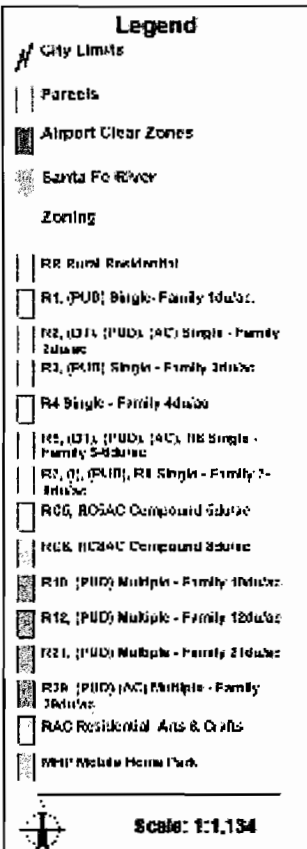
1. The Developer shall remove all obstructions between a height of three (3) feet and eight (8) feet within the required visibility triangle as determined by the public works director based on the standards adopted by the American Association of State Highway and Transportation Officials (AASHTO). Refer to visibility triangle in attached drawing.

If you have any questions or need any more information, feel free to contact me at 955-6697. Thank you.

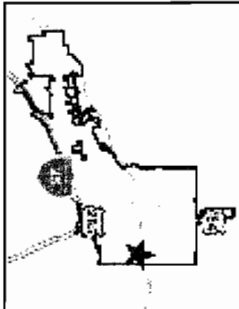
City of Santa Fe, New Mexico

Exhibit B

Maps



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 Limits

- Scale: 1:1,134

City of Santa Fe, New Mexico

Exhibit C

Applicant Materials

-----Original Message-----

From: Albert Durand [mailto:whirlwind61@gmail.com]
Sent: Sunday, June 10, 2012 10:08 PM
To: LAMBOY, WILLIAM A.
Subject: Re: 1463 Upper Canyon Road

William Lamboy, AICP
Senior Planner, Current Planning Division
Land Use Department
City of Santa Fe
505-955-6888

Hello Mr. Lamboy,

I appreciate your prompt and thorough answer to my questions. I will be submitting our lotsplit application Monday morning prior to 10 AM, with all the supporting documents the application form requires, including this Letter of Intent/ Location/ Acreage/ Statements regarding Zoning Compliance/ and descriptions of various features of the proposed new plat.

Re the density calculations, please accept this letter for our calculations for a day, as my Surveyor accidentally left the density calcs off the plat, and will add them tomorrow. I have attached the "Calculation of Allowable Dwelling Units" statute 14-17.12 & the overlay map, which says: when in the "area of mountainous or difficult terrain" and when over 25% of the site contains slopes in excess of 20% slopes, we are to multiply the Surveyor-determined acreage (3.4615 Acres) of our property by the gross density factor (R-2, or 2), then multiply that result (6.923 dwelling units) by 0.75 to arrive at the result of 5.19 dwelling units for the entire property, then rounded down to 5 DU.

I received your 2:39 PM Friday email too late for our surveyor to make many of the changes you proposed (though we really appreciate your getting it to me so quickly after receiving the draft preliminary plat from me; our surveyor was swamped and ended up doing sunday fieldwork for us).

I hand-noted the Primary/ Accessory Dwelling language you required on the 3 plat copies attached, and deleted the erroneous reference to a maximum heated area of 1,900 SF for an Accessory Dwelling on Tract B-2. Both the Lotsplit Plat and the Legal Lot of Record Plat are on the one PDF disc.

As you know, we have covenanted in the "Owner's Consent" plat declaration that the northerly Tracts B-1 and B-2, together, may only have a total of either one Primary Dwelling plus one Accessory Dwelling, or alternately two Primary Dwellings but no Accessory Dwellings. Additionally, the Owner's Covenant limits any Primary Dwelling located on Tract B-2 to a maximum of one story with a maximum of 1,900 square feet of heated area.

Thus the two northerly tracts will not have, in total, a maximum density of over two Primary Dwelling Units, and if an Accessory

Dwelling were to be built on the same lot as the Primary Dwelling, there would end up being a maximum density of just one Dwelling Unit on the site north of the river. We use the highest-density, maximum calculation (total of 2 for the 2 tracts north of the river) for our purpose, of course.

South of the river, the Owner's Consent Declaration limits each of the two tracts resulting from the Lotsplit, to one Primary Dwelling and one Accessory Dwelling.

The net result of these restrictions is a maximum of Four (4) Dwelling units for the entire property that qualifies for a density of Five (5) Dwelling units. As you suggested, I set the Covenant expiration date for everything to the 2099 date.

However, of course due to the Owner's prohibition of Accessory Dwellings north of the river if two Primary Dwellings are built there, plus the size and story restrictions on one of those, the net "physical development effect" (if I may) is equivalent to a density of only three (3) Dwelling units for the entire "5 DU property", though technically we must call it four.

Sorry to burden you with these somewhat unusual development restrictions and our request for your assistance in creating them. It's the result of commitments we have personally made to neighbors and the Canyon Neighborhood Association and the Santa Fe Conservation Trust over the years, and personal commitments to preserve this exceptional property from excessive impacts on wildlife and the neighborhood.

We are in the difficult position of being forced financially to sell this home we built every inch of with our own hands over the last 20 years, and we want to protect the property to the extent of our abilities before we leave. We're doing a number of additional private covenants as well, such as establishing permanent and effective wildlife access to the river from both sides of the Canyon, limiting lighting and dog impacts, and so forth.

I have enclosed both Surveyor's letters certifying that the percentage of 20% slopes on both properties exceeds 25%; both of FEMA's most recent determination letters; a slope analysis; Legal Lot of Record plat; PDF's, buildable area diagrams & calculations for the south lots, & so forth. For information on planned floodline corrections, (which this Lotsplit isn't dependent on) I included a pending Walker Engineering FEMA LOMR, tho it's unlikely to be approved (or denied) before the August 2 Summary Committee hearing.

Each tract, when applicable, can easily meet all Accessory Dwelling requirements.

Buildable Area of the "Adjusted Telesfor Rivera Tract 1" is approximately 7,800 SF, exclusive of setbacks & terrain management slope limits. It has and can continue to have a minimum of 5 qualifying offstreet parking spaces, with 3 required. Buildable area of the "Adjusted Telesfor Rivera Tract 2" is currently 3,090 SF, including 200 SF of obviously manmade 30% slopes (old dirt piles with 1940's shoes, bottles, & old carparts in them). In any case, well in excess of the 2,000 sf minimum. It also has space for 5

cars, 4 in garages, like the others sized to the standard 9' x 19' with 24 ft turnout space.

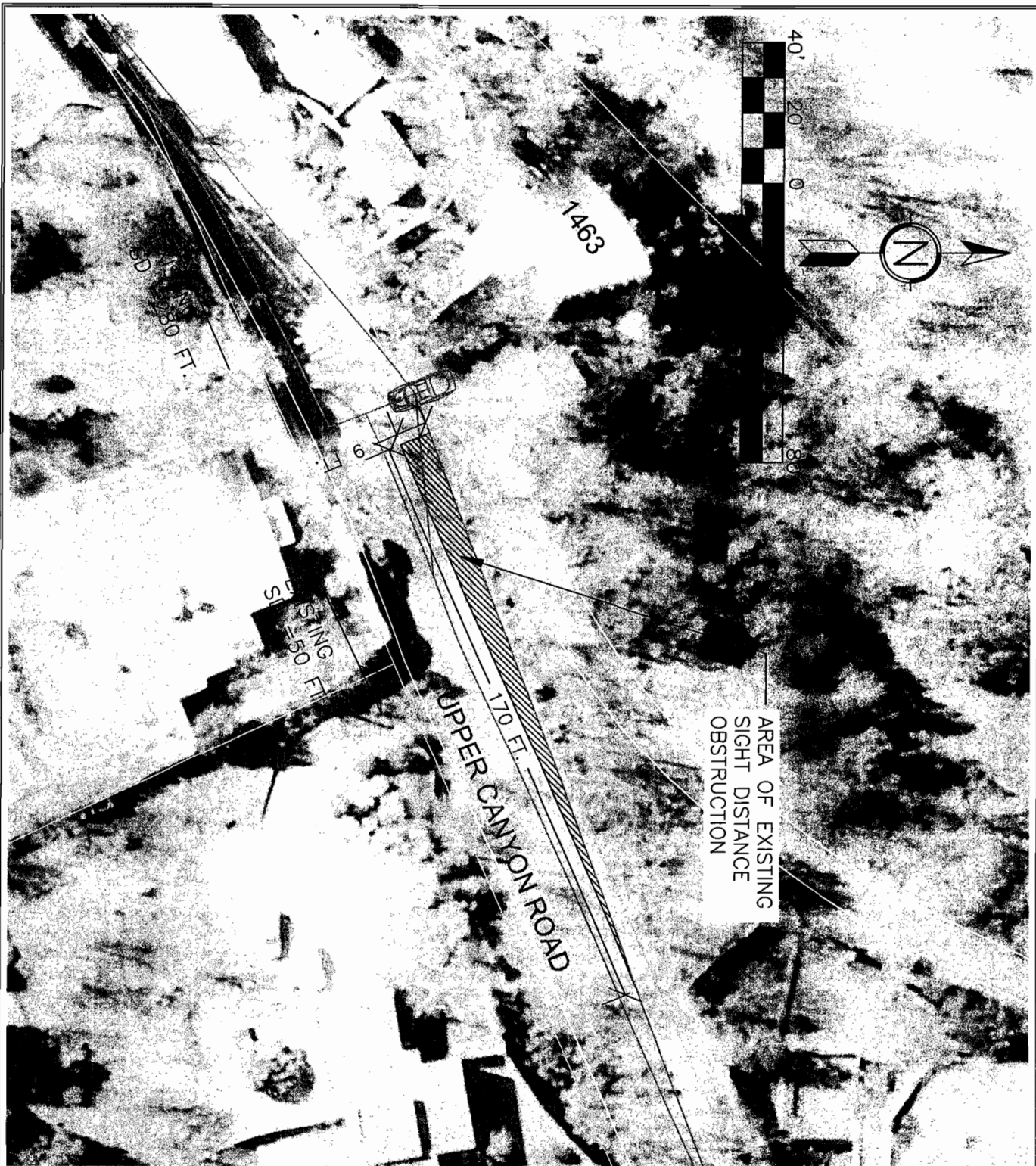
A pending LOMR or a planned FEMA Elevation Certificate will correct the floodline locations, though all tracts outside and above the flood hazard areas substantially exceed the minimum 2,000 SF of buildable area. Our existing home's finish floor elevation of 7,225 ft is, for example, 16 feet above the 100 year flood's BFE level of 7209 ft in that location. The Lotsplit has no effect on 100 year flood locations or levels.

To improve privacy for the north lots' views, and to get cars more hidden from views from the south lots- behind the existing river berm- we are adjusting the alignment of the existing gravel driveway segment north of the river as shown on the plat. Because the grade contours run North/ South in this location, the alignment change results in zero/ no flood- water depth on the revised driveway. Historic aerial shots of the agricultural uses in the valley from the 30's on, show the road in multiple different locations all along the valley.

All utility transformers, pedestals, meters etc are located outside of the 100 year flood zone. We have added well-share access easements both sides of the river.

Any questions, please ask!
Thanks for your assistance,

Albert and Connie Durand
1463 Upper Canyon Road
660-2282



PROJECT:

INTERSECTION/DRIVEWAY SIGHT DISTANCE

LOCATION:

SIGHT DISTANCE AT 1463 UPPER CANYON ROAD

CITY OF SANTA FE



PUBLIC WORKS DEPARTMENT
ENGINEERING DIVISION

| | |
|--------------|-----|
| Designed By: | JJR |
| Drawn By: | SMW |
| Checked By: | JJR |

SHEET NO.

1 OF 1

Eileen Fresquez
1500 Cerro Gordo
Santa Fe, NM 87501

August 1, 2012

Re: Case # 2012-068. Constance Durand Lot Split

Current Planning Division:

I am the property owner just above the Durand property and am concerned about the number of dwellings I understand from neighbors, that there are deed restrictions and covenant agreements of some kind between the original owner, Bell Carpenter, and the current owners, Constance and Albert Durand. Is there something of this nature filed with the City of Santa Fe or County? If so, how do I obtain this information?

Thank you,

Eileen Fresquez
505-690-3252

A handwritten signature in cursive script that reads "Eileen Fresquez". The signature is written in black ink and is positioned below the printed name and phone number.

Exhibit "3"

LAWRENCE STEVEN TAUB
COUNSELLOR AT LAW, P.C.

1447 Seville Road
Santa Fe, New Mexico 87505-4647

(505) 984-3222
Fax: (505) 986-9293
e-mail: LST@nets.com

26 July 2012

City of Santa Fe
Land Use Department
Current Planning Division
200 Lincoln Avenue, Box 909
Santa Fe, New Mexico 87504-0909

Re: Case #2012-068 - Constance Durand Lot Split

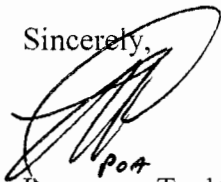
To Staff:

I represent Ms. Belle M. Carpenter, who owns the properties at 1468, 1470 and 1472 Canyon Road, where she has resided for over 40 years. Three generations of Carpenters continue to live at these residences.

I am writing in support of the Land Use Department granting the lot split in Case #2012-068. Constance and her husband Albert have been stewards for the land and river the 22 years they have owned the property and lived there, and they are dedicated to the continuing care of the land and river.

Thank you for your consideration of this endorsement.

Sincerely,

A handwritten signature in black ink, appearing to be 'LST', with a long horizontal line extending from the end of the signature.

Lawrence Taub, on behalf of
Belle M. Carpenter

Exhibit "4"