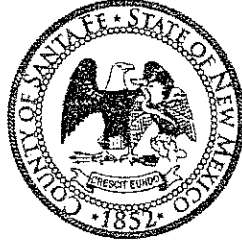


Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

**BCC CASE # PCPA 16-5240 COLINAS DEL SOL PLAT AMENDMENT
HIGH DESERT PARTNERSHIP, APPLICANT**

ORDER

THIS MATTER came before the Santa Fe Board of County Commissioners (BCC) for hearing on December 13, 2016, on the Application of High Desert Partnership (Applicant) for an amendment to a condition imposed by the BCC on an approved Plat for Colinas del Sol, which created sixteen 12.5 acre lots each restricted to 0.20 acre feet of water per year. The amendment request is a restriction of 0.25 acre feet per year for each lot. The property is located at Colinas del Sur Road, via Hwy 285, within Section 25, Township 15 North, Range 9 East, Commission District 5, SDA-2. The BCC, having reviewed the application, staff reports, and having conducted a public hearing on the application, finds that the application is well-taken and approves the request and makes the following findings of fact and conclusions of law:

1) The Applicant submitted all requirements necessary for an amendment to the Plat condition to allow 0.25 acre feet per year water restriction per lot in accordance with Santa Fe County Ordinance No. 2015-11, the Sustainable Land Development Code (SLDC). In advance of hearing on the Application, the Applicant met all notice requirements as per Chapter 4, Section 4.6.3., General Notice of Application Requiring a Public Hearing, of the SLDC.

2) The owner acquired the property by real estate contract recorded on December 30, 2005, as Instrument # 141411 in the records of the Santa Fe County Clerk, which resulted in the

owner receiving a warranty deed. The property is located at Colinas del Sur Road, via Hwy 285, within Commission District 5, and SDA-2. The property is zoned Rural Residential.

History of the Project

3) On April 10, 2007, the Board of County Commissioners (BCC) approved Preliminary and Final Development Plan and Plat for a 16 lot Residential Subdivision on 202.03 acres.

4) The BCC imposed a number of conditions of approval on the subdivision. The developer of the subdivision has complied with the majority of the conditions imposed by the BCC. One of the conditions was to limit the water use to 0.20 acre feet per year per lot.

5) In 2006 a geohydrology report was prepared demonstrating 100-year water supply for the 16 lot subdivision. A community water system was not required due to the size and number of lots involved as per prior Code requirements (Article V, Table 5.1 of the Land Development Code, Ordinance No. 1996-10). The report was reviewed by the New Mexico Office of the State Engineer and Santa Fe County Water Resources Department.

6) Staff conditions presented to the BCC at the April 10, 2007, hearing, stated, "water use on this property will be restricted to 0.25 acre feet per year per lot." The BCC amended this condition to state, "water use on this property will be restricted to 0.20 acre feet per year per lot."

7) The Plat was recorded on October 23, 2007.

8) The current County Hydrologist reviewed the 2006 Geohydrology Report and found that the water restriction of 0.20 acre-foot per lot was not based on the results of the geohydrologic report, but rather a requirement of the BCC based on a moratorium in place at the time. Under the most conservative scenario, the geohydrologic report supports 0.725 acre-foot of water per 12.5 acre lot which exceeds the value in the SLDC of 0.25 acre-foot and demonstrates an acceptable long-term drawdown over a 100 year period.

9) At the time of approval the subdivision was subject to the criteria set forth by the Eldorado moratorium (County Ordinance 2001-14). Section C.2 of Ordinance No. 2001-14 stated:

New subdivision, land division and master plan applications which do not rely on EDU water service will be processed subject to the Santa Fe County Land Development Code, as amended. However, no density adjustments beneath 12.5 acres per dwelling unit, the basic Basin Fringe Hydrologic Zone Minimum Lot Size will be considered, and these approvals will be contingent upon acceptable site specific hydrology reports, water use covenants and proper well drilling and construction techniques which protect and optimize the source of supply...

10) The lots are being served by three shared wells. A geohydrology report was prepared and submitted with the Preliminary and Final Plat and Development Plan application in 2006 which demonstrated a 100-year water supply for the 16 lot subdivision known as Colinas del Sol. A community water system was not required due to the size and number of lots involved per the Land Development Code Ordinance No. 1996-10 (Article V, Table 5.1). The report supported sufficient water supply of 0.25 acre feet per year for each lot.

11) At the public hearing before the BCC on December 13, 2016, staff did not recommend the amendment because it is the discretion of the BCC to impose water restrictions but staff did determine that the Application is comprehensive in establishing the scope of the project. The level of detail provided in the Application was sufficient for a review of the proposed Plat Amendment. The Application has satisfied all submittal requirements. The reviews from County staff established that the Application is in compliance with all requirements of the Sustainable Land Development Code. The amendment is within the discretion of the BCC and the information presented by staff and the Applicant demonstrates that the increase in the water use from 0.20 to 0.25 acre feet of water per lot per year is supported by the data. Staff recommended the following conditions be imposed:

- a. The Plat for the 16 lot Subdivision, known as Colinas del Sol, shall be re-recorded illustrating all prior conditions, include reference to the existing disclosure statement, and include reference to revised water restrictive covenants.
- b. Prior to the re-recording of the Plat, the three existing wells shall be re-tested for water quality, water quality tests shall be submitted to the County Hydrologist and water treatment systems shall be installed at the well head if water quality is outside acceptable standards.
- c. The revised water restrictive covenants shall limit the water use per lot to 0.25 acre feet of water per year, address the water contaminants and the proposed mitigation of those contaminants, require that a water meter be installed to each lot and annual meter readings be submitted to the County.
- d. A note on the re-recorded Plat shall state: only one dwelling is permitted per lot. No accessory dwellings shall be permitted on any lot.

12) The Agent spoke in favor of the Application and agreed to all the recommended conditions.

13) No members of the public spoke in favor or in opposition to the Application.

WHEREFORE the Board of County Commissioners of the County of Santa Fe finds that the Applicant has satisfied all submittal requirements. The Board hereby approves the request for an amendment to a condition, imposed on a previously approved Plat, to allow the water use on a 16 lot residential subdivision to increase to 0.25 acre feet of water per lot per year, subject to the conditions set forth in paragraph 11 above. The motion to approve the Application passed by a 5-0 vote, with Commissioners Anaya, Roybal, Holian, Stefanics, and Chavez voting in favor of the motion.

IT IS SO ORDERED

This Order was approved by the Board of County Commissioners of Santa Fe County on this ____ day of _____, 2017.

The Board of County Commissioners of Santa Fe County

By: _____
Henry P. Roybal, Chairperson

ATTEST:

Geraldine Salazar, County Clerk

APPROVED AS TO FORM:



Gregory S. Shaffer, County Attorney

DRAFT

Adverse opinions was modified to incorporate statutory language regarding the timeframe for appealing an adverse decision and the appeals processes of the SLDC were consolidated into a single chapter. Revisions to chapters other than 5 which have bearing on subdivision development are also proposed, for example, Chapter 6 Section 6.4.2.3 was amended to clarify that a water service availability report requires water quality analysis. Chapter 7, Table 7-12 and 7-13, road standards were modified for SDA2 areas from urban standards to rural standards. Chapter 7, Table 7-20 was modified to require a longer pumping standard for subdivisions with more than five lots. Chapter 7, Section 7.1.3 provides that all water suppliers must meet the 99 year water supply requirement. A more detailed explanation of each amendment to Chapter 5 related to the proposed SLDC amendments is contained in the record which includes staff memos and recommendations.

COMMISSIONER HOLIAN: Thank you, Commissioner Anaya. And I do accept that statement being read into the record as part of my motion.

CHAIRMAN CHAVEZ: So there's a motion, a second; any further discussion? Roll call, please.

Commissioner Anaya	Aye
Commissioner Chavez	Aye
Commissioner Holian	Aye
Commissioner Roybal	Aye
Commissioner Stefanics	Aye

CLERK. SALAZAR: Five yeses, congratulations. The ordinance that just passed is 2016-9.

MS. ELLIS-GREEN: Thank you.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN CHAVEZ: Commissioner Stefanics.

COMMISSIONER STEFANICS: Could we ask Ms. Penny Ellis-Green to provide us revised copies of the entire thing. Even though I am outgoing, I would appreciate a completed document.

MS. ELLIS-GREEN: Mr. Chair, Commissioners, we will be recording once we've entered the final changes we'll be recording within the next week and we will then make copies for everyone.

COMMISSIONER STEFANICS: A New Year's present, thank you.

B. Land Use Cases

1. **BCC CASE # PCPA 16-5240 Colinas del Sol Plat Amendment.**
High Desert Partnership, Applicant, James Siebert, Agent,
Request an Amendment to a Condition Imposed by the Board
of County Commissioners on an Approved Plat for Colinas del
Sol. The Plat Created Sixteen 12.5 Acre Lots and was
Conditioned to 0.20 Acre Feet Per Year Water Restriction Per
Lot. The Applicant is Requesting an Amendment to the Plat

Condition to Allow 0.25 Acre Feet Per Year Water Restriction Per Lot. The Property is Zoned as Rural Residential and is located at Colinas del Sur Road, via Hwy 285, within Section 25, Township 15 North, Range 9 East, (Commission District 5), SDA-2. Jose E. Larrañaga, Case Manager.

JOSE LARRAÑAGA (Case Manager): Thank you, Mr. Chair. High Desert Partnership, Applicant, James Siebert, request an amendment to a condition imposed by the Board of County Commissioners on an Approved Plat for Colinas del Sol. The plat created sixteen 12.5 acre lots and was conditioned to 0.20 acre-feet per year water restriction per lot. The applicant is requesting an amendment to the plat condition to allow 0.25 acre feet per year water restriction per lot. The property is zoned as Rural Residential and is located at Colinas del Sur Road, via Hwy 285, within Section 25, Township 15 North, Range 9 East, Commission District 5, SDA 2.

On April 10, 2007, the Board of County Commissioners approved Preliminary and Final Development Plan and Plat for a 16 lot Residential Subdivision on 202.03 acres. The BCC imposed a number of conditions of approval on the subdivision. The Plat was recorded on October 23, 2007. The developer of the subdivision has complied with the majority of the conditions imposed by the BCC. One of the conditions was to limit the water use to 0.20 acre-feet per lot. The Applicant is now requesting to amend this condition and requests 0.25 acre-feet of water per lot per year.

Condition # 9 of the 15 staff conditions presented to the BCC at the April 10, 2007, hearing, stated, "Water use on this property will be restricted to 0.25 acre-feet per year per lot." The BCC amended this condition to state, "Water use on this property will be restricted to 0.20 acre-feet per year per lot." The Applicant and the Applicants Agent were allowed to speak in regards to the amendment prior to a final vote on the motion. The BCC approved the 16 lot Subdivision with staff conditions and amendments to condition #3 and #9 by a 3-2 voice vote.

At the time of approval the subdivision was subject to the criteria set forth by the Eldorado moratorium. Section C.2 of Ordinance 2001-14 stated: "New subdivision, land division and master plan applications which do not rely on EDU water service will be processed subject to the Santa Fe County Land Development Code, as amended. However, no density adjustments beneath 12.5 acres per dwelling unit, the basic Basin Fringe Hydrologic Zone Minimum Lot Size will be considered, and these approvals will be contingent upon acceptable site specific hydrology reports, water use covenants and proper well drilling and construction techniques which protect and optimize the source of supply".

The lots are being served by three shared wells. A geohydrology report was prepared and submitted with the Preliminary and Final Plat and Development Plan application in 2006 which demonstrated a 100-year water supply for the 16 lot subdivision known as Colinas del Sol. A community water system was not required due to the size and number of lots involved per the Land Development Code. The report supported sufficient water supply of 0.25 acre-feet per year for each lot.

The current County Hydrologist reviewed the 2006 Geohydrology Report and found that the proposed amendment to restrict water use to 0.25 acre-feet per year for the

proposed subdivision is consistent with the Sustainable Land Development Code and is supported by the geohydrologic report.

Staff Recommendation: On April 10, 2007, the Board of County Commissioners approved Preliminary and Final Plan and Plat for a 16 lot Residential Subdivision and enacted a condition to restrict the water use to 0.20 acre-feet of water per lot per year, therefore, Staff cannot support the Applicant's request to increase the water use to 0.25 acre-feet per year.

It is at the discretion of the BCC to consider an amendment to the approved condition. The BCC may consider the information presented by staff and the Applicant to allow the increase of water use to 0.25 acre-feet of water per lot per year. If the BCC approves an amendment to the condition, staff recommends the following conditions be imposed:

1. The Plat for the 16 lot Subdivision, known as Colinas del Sol, shall be re-recorded illustrating all prior conditions, include reference to the existing disclosure statement, and include reference to revised water restrictive covenants.
2. Prior to the re-recording of the Plat, the three existing wells shall be re-tested for water quality, water quality tests shall be submitted to the County Hydrologist and water treatment systems be installed at the well head if water quality is outside acceptable standards.
3. The revised water restrictive covenants shall limit the water use per lot to 0.25 acre-feet of water per year, address the water contaminants and the proposed mitigation of those contaminants, require that a water meter be installed to each lot and annual meter readings be submitted to the County.
4. A note on the re-recorded Plat shall state: only one dwelling is permitted per lot. No accessory dwellings shall be permitted on any lot.

Mr. Chair, I stand for any questions.

CHAIRMAN CHAVEZ: Questions of staff? Commissioner Anaya.

COMMISSIONER ANAYA: So we typically did .25 and maybe you said it and I missed it but what was the circumstance that we went to .20 instead of keeping it at the standard .25 which we've done on most everything else?

MR. LARRAÑAGA: Mr. Chair, Commissioner Anaya, at that time the Board of County Commissioners due to the moratorium and it's in the minutes of that meeting, decided to go with .20. Staff was recommending .25 and the geohydrology report supported the .25.

COMMISSIONER ANAYA: That's all I have right now, Mr. Chairman.

CHAIRMAN CHAVEZ: Thank you, Commissioner Anaya. I'm going to open it up to the public hearing. Is there anyone here that would want to speak to this?

MR. SIEBERT: Mr. Chair, Commissioners, my name is Jim Siebert. I was previously sworn. The issue – what we've done in your packet is done an assessment – this project was approved back in 2006, so what we did is we went through and evaluated other projects in 2006 and 2007 that used domestic wells and the amount of water that was allocated to them. And at a minimum it was always .25. What – I think that the interesting thing, you'll note that two of the Commissioners voted against the project, I happen to be the consultant at that time and the reason they voted against the project is that they felt that the imposition of .20 was not consistent with the code and not

consistent with practice. So – one of the difficulties here is that they’re large lots. They’re on 12.5 acres and larger and the type of person that is looking at these lots to buy the lots is somebody that would like to put a horse or horses on them and you simply can’t support horses on .2 acre feet. So it’s considerably hurt the marketing of this particular property so we are asking for your consideration in this matter: We agree with all conditions as stated by staff.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN CHAVEZ: Commissioner Anaya.

COMMISSIONER ANAYA: Yeah, I appreciate the feedback and maybe we might have some additional comments but I’d like to see if there’s other feedback, respectfully, if there’s other feedback on the case, and, Mr. Chairman, then, I’d be prepared to make a motion depending.

CHAIRMAN CHAVEZ: So I’ll ask. Is there anyone here that would like to speak to this land use case? Seeing none. Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, I would move approval of the .25 with staff conditions.

COMMISSIONER HOLIAN: Second.

COMMISSIONER STEFANICS: Second.

CHAIRMAN CHAVEZ: There’s a motion and multiple seconds with staff recommendations. And the applicant does agree to those conditions.

MR. SIEBERT: Yes, he does.

CHAIRMAN CHAVEZ: Thank you.

The motion passed by unanimous [5-0] voice vote.

~~2. CASE CP/S 16-5090 Turquoise Trail North Conceptual Plan, Preliminary Plat and Final Plat for Phase 1. RCS-Turquoise Trail South I, LLC, Applicant, Sommer Karnes & Associates LLP, Agent, Request Conceptual Plan Approval to Phase the Previously Approved Turquoise Trail North Residential Subdivision (290 dwelling units on 101.49 acres) into 8 phases, to Modify the Approved Housing Types, and to Re-Designate the Commercial Lot Into a Multi-Family Lot (23 Dwelling Units). The Application also Includes a Request for Preliminary Plat Approval for All 8 phases and Final Plat Approval for Phase 1, Which Consists of 30 Residential Lots. The Property is Located in the Community College District, Which is a Planned Development District, East of State Road 14 and North of Vista del Monte, within Sections 24 and 25, Township 16 North, Range 8 East (Commission District 5). Vicente Archuleta, Case Manager.~~

CHAIRMAN CHAVEZ: Mr. Archuleta.

VICENTE ARCHULETA (Case Manager): Thank you, Mr. Chair. RCS-Turquoise Trail South I, LLC, Applicant, Sommer Karnes & Associates LLP, Agent,

