

SANTA FE COUNTY
RESOLUTION NO. 2018-14

**A RESOLUTION CONFIRMING THE LAND USE ADMINISTRATOR'S
DETERMINATION THAT THE EXTRATERRITORIAL ZONING AUTHORITY
ORDER FOR CASE NO. 07-4400, CULVER REQUEST, HENRY CULVER,
APPLICANT, GRANTED THE APPLICANT RELIEF FROM A PREVIOUSLY
APPROVED CONDITION OF APPROVAL OF A VARIANCE**

WHEREAS, the Santa Fe Extraterritorial Zoning Authority (EZA) adopted Santa Fe Extraterritorial Zoning Authority Ordinance 1997-4 (EZO) establishing zoning regulations for the extraterritorial zone on August 26, 1997, and the EZO was recorded with the Santa Fe County Clerk on September 26, 1997;

WHEREAS, Henry Culver, in EZ Case No. V06-4290, obtained a grant of variance from the EZA to allow a road grade of 21% in order to extend a road through the property, conditioned on various things, including a requirement that he provide secondary emergency access through Cloudstone Road.

WHEREAS, on November 29, 2007, the EZA heard EZ Case No. 07-4400, Culver Request, Henry Culver, Applicant, wherein Mr. Culver sought relief from conditions of approval of the aforementioned variance condition;

WHEREAS, the real property which was the subject of that Application was located at 2117 B Foothills Road, within Section 6, Township 16 North, Range 2 East.

WHEREAS, minutes from the November 29, 2007 EZA meeting reflect that after holding a hearing on the Application, the EZA acted to approve the Application, based in part of the fact that the Las Piedras Rosas Homeowners Association supported the Application and objected to providing secondary access to the property through Cloudstone Road;

WHEREAS, at the November 29, 2007 EZA meeting, Commissioner Chavez moved to allow the removal of the previously imposed condition and Commissioner Vigil seconded the motion, which carried unanimously;

WHEREAS, the EZA approved an order (Order) intended to reflect their ruling, which order was recorded with the Santa Fe County Clerk on March 20, 2008;

WHEREAS, the Order found that the Application was well taken and confirmed that the Applicant sought relief from the condition of approval of the variance requiring secondary emergency access through Cloudstone Road. The Order also found that there were no opponents to the Application and the Las Piedras Rosas Homeowners Association's attorney had no objection to the Application, that the Applicant had tried unsuccessfully for two years to obtain

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the emergency access required through negotiations with the Las Piedras Rosas Homeowners Association, and that the Fire Marshall confirmed he would utilize the driveway rather than the emergency access if an emergency situation arose at the property;

WHEREAS, the Order included the following: "The Applicant has submitted evidence that supports granting the request. The Applicant has demonstrated the compliance with all conditions imposed on EZ case #V06-4290, except one. The denial of the request would cause the Applicant extraordinary hardship inhibiting the achievement of the purpose of the code, with very little or no gain in public safety. Additionally, the Applicant's inability to comply with the condition of a secondary emergency access is non-self-inflicted."

WHEREAS, the Order also provided that "The evidence supports the granting of the Applicants request. The evidence shows that granting the Applicants request would allow him to proceed with a Family Transfer Land Division and build a home for his daughter. Additionally, granting the request would result in a minimum easing of the EZO";

WHEREAS, the Order also, seemingly erroneously, provided that "the Application for variance is denied."

WHEREAS, the EZO has been repealed, the EZA is no longer in place and the real property located at 2117 B Foothills Road, within Section 6, Township 16 North, Range 2 East now falls outside of the Presumptive City Limits and within the zoning and land use jurisdiction of Santa Fe County;

WHEREAS, the current owner of the subject property has requested that the conflict in the order between its findings and its conclusion be recognized and that the BCC confirm that the order granted relief from the emergency access condition;

WHEREAS, the Land Use Administrator has reviewed the minutes of the EZA meeting at which the Application was acted on and has confirmed that the EZA voted to approve the Application for relief from the condition of installing an emergency access, and has determined that inclusion of the statement "the Application for variance is denied" was a typographical error and the Growth Management Department would not require the secondary access as part of the variance;

WHEREAS, the BCC concurs with the Land Use Administrator's conclusion that the Order contains a typographical error, and that the Order operates to grant the relief requested by the Applicant, namely removal of the condition of approval of the variance that required a secondary emergency access.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Santa Fe County that, as determined by the Land Use Administrator, the Order in EZ case No. 07-4400, Culver Request, Henry Culver, Applicant, was an order granting relief from the condition of approval of the variance which required a secondary emergency access.

APPROVED, ADOPTED AND PASSED this 13th day of February 2018.

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BOARD OF COUNTY COMMISSIONERS

Anna Hansen

Anna Hansen, Chairperson

ATTESTATION:

Geraldine Salazar
Geraldine Salazar, County Clerk



APPROVED AS TO FORM:

R. Bruce Frederick
R. Bruce Frederick, County Attorney

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

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I Hereby Certify That This Instrument Was Filed for
Record On The 14TH Day Of February, 2018 at 09:20:26 AM
And Was Duly Recorded as Instrument # 1849936
Of The Records Of Santa Fe County



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

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