



**Environmental  
Planning  
Commission**

**Agenda Number: 13  
Project Number: 1002632  
Case #'s: 07EPC-00571  
November 15, 2007**

**Supplemental Staff Report**

<b>Agent</b>	Tierra West LLC
<b>Applicant</b>	Capital Alliance Investments
<b>Request</b>	<b>Text Amendment to the Northwest Mesa Escarpment Plan</b>
<b>Legal Description</b>	Sundance Estates, Phases 1A and 1B
<b>Location</b>	Lyon Blvd. between Paradise Blvd. NW and Proposed Unser Alignment
<b>Size</b>	Approximately 37 acres
<b>Existing Zoning</b>	R-LT
<b>Proposed Zoning</b>	No Change

**Staff Recommendation**

*That a recommendation of APPROVAL be forwarded to the City Council regarding 07EPC-00571, to allow heights to be measured from the finished grade and to allow an exception to the 15' height limit within the Impact Area, based on Findings beginning on page 4.*

*That the request to allow an exception to the 15' height limit within the Conservation Area be APPROVED by the Environmental Planning Commission, based on Findings beginning on page 4 and subject to Conditions of Approval on page 7*

**Staff Planner**  
*Carmen Marrone, Senior Planner*

**Summary of Analysis**

This is a request to amend the *Northwest Mesa Escarpment Plan* to allow single-family homes up to 19+ feet within the Conservation Area and up to 24+ feet within the Impact Area of the Plan and to allow measurement of the building heights from the finished grade of the site rather than the natural grade within the Sundance Estates Subdivision.

This request was deferred from the October 18, 2007 EPC hearing in order to confirm the 9% slope line which is the reference line for the Conservation and Impact Areas within the Escarpment Plan. On November 1, the City agreed to the adjustment of the 9% slope line.

The overall Master Drainage Plan for the area created the need to raise the site in order keep developed flows out of the adjacent Piedras Marcadas Arroyo. The applicant has received City approvals of subdivision plats and has installed significant improvements on the site.

Staff finds that the applicant has adequately addressed Policy 12 of the Escarpment Plan by demonstrating that the impact of the proposed development on views to and from the escarpment will be the same as the impact if the 15' height limit were met since, in fact, there are no views to the escarpment face from the site.

There is mild neighborhood opposition to this request.

***This staff report should be read in conjunction with the October 18, 2007 staff report.***

City Departments and other interested agencies reviewed this application from 5/7/07 to 5/18/07. Agency comments were used in the preparation of this report and begin on page 19 of the Oct. 18 Staff Report.

### ***Background***

This is a 3-part request to amend the *Northwest Mesa Escarpment Plan* (Escarpment Plan) to:

1. allow building height measurement from the finished grade rather than the natural grade as required under Policy 12-2;
2. allow an exception to the 15' height limit in the Impact Area in order to allow buildings up to 24', measured to the roof midline; and
3. allow an exception to the 15' height limit in the Conservation Area in order to allow buildings up to 19', measured to the roof midline.

The site is known as Sundance Estates Subdivision, Phases 1A and 1B. Phase 1A is mostly within the Impact and View Areas of the Escarpment Plan while Phase 1B is mostly within the Conservation Area of the Plan. The subdivision is located immediately north of the Petroglyph National Monument between Unser and Lyons Boulevard NW.

### ***New Information since the October 18, 2007 EPC Hearing***

At the October 18, 2007 EPC hearing, the applicant requested a 30-day deferral in order to meet with the Planning Department Director to obtain approval on the surveyed boundaries of the 9% slope of the escarpment face of the Petroglyph National Monument per Policy 3.2. The 9% slope is the reference line for the Conservation and Impact Areas of the Escarpment Plan. On November 1, 2007, the Planning Director concurred that the survey prepared by Precision Surveys, Inc., which was signed and sealed on October 4, 2007, accurately depicts the 9% slope line south of the site. As a result of the adjustment of the 9% slope line, **32** lots are within the Conservation Area and **58** lots are within the Impact Area.

On October 19, 2007, Staff, the City Surveyor, the City Hydrologist, and staff from the Petroglyph National Monument conducted a site visit to confirm the 9% slope line and to assess the drainage situation within the Monument. In the October 18 Staff Report, staff included photographs submitted by the Petroglyph National Monument demonstrating the negative impacts of the drainage plan associated with the development of Sundance Estates. The Escarpment Plan contains policies to minimize the impact of construction within the Conservation and Impact Areas (Construction Mitigation, p.55). Policy 11 of the Escarpment Plan states, "Any damage to the vegetation, slope, or placement of boulders due to or related to construction shall be mitigated." The City Hydrologist agrees that the applicant should restore the area within the Monument, adjacent to the subject site, to its original condition, as much as possible.

The applicant has provided additional information in a letter dated November 5, 2007. The applicant claims that all of the buildings within the Conservation Area will be "higher-end" custom homes with non-typical features such as vaulted ceilings, split level floor plans, etc. in order to take advantage of the views. The applicant also states that the Chamisa Storm Drainage Management Plan, agreed to by the upland property owners, AMAFCA, APS and the City, created the need to

raise the natural grade in order to keep developed flows out of the Piedras Marcadas Arroyo. The applicant provides a brief history of the drainage plan for the area. A copy of the upland drainage basin has been included to show the upland area that was diverted out of the basin.

The applicant also provided additional information regarding the offers made to the City of Albuquerque for the purchase of Phase 1B (formerly Tract 5) of Sundance Estates Subdivision. A letter dated 11/01/07 from the Law Offices of Campbell & Wells, P.A. confirms events that transpired between the City and the property owner regarding the purchase of Tract 5 for open space purposes.

## ***Analysis***

### **1. Finished Grade versus Natural Grade**

The October 18 Staff Report, pages 8 & 9, provides analysis of this portion of the request and finds that the request to measure building height from the finished grade versus the natural grade is justified in order to protect the Petroglyph National Monument from developed flows. The new information submitted by the applicant regarding the Master Drainage Plan for the area further supports staff's recommendation to amend the Escarpment Plan to allow building measurement from the finished grade of the site.

### **2. Exception to the 15' height limit in the Impact Area**

Based on the approved 9% slope line, 58 lots are within the Impact Area. Pages 10 & 11 of the October 18 Staff Report contains analysis regarding this portion of the request. No new information has been received since October 18 to cause staff's analysis to change. Staff continues to recommend approval of an exception to the 15' height limit within the Impact Area in order to allow 24' high buildings, measured from the finished grade to the roof midline, however, the buildings should not exceed 26', measured to the top of the roofline.

### **3. Exception to the 15' height limit in the Conservation Area**

The Conservation Area designation does not preclude a property owner's right to develop within the area. Based on the approved 9% slope line, 32 lots are within the Conservation Area. The applicant is requesting an exception to the 15' height limit in order to develop 19' tall structures, measured from the finished grade to the roof midline. Policy 12-2 of the Escarpment Plan allows exceptions to the 15' height limit provided the applicant demonstrates that the impact of the proposed development on views to and from the escarpment will be the same as the impact if the 15' height limit were met.

On October 19, staff made a second visit to the site and was able to walk inside the Monument to get a better view of the escarpment within the Piedras Marcadas Arroyo. Previously, staff was not able to walk into the Monument because of flooding conditions. On this second site visit, staff was able to verify that there are no views of the escarpment face from within the subject site. In order to actually see the escarpment, a person has to walk into the Monument, stand close to the edge of the Piedras Marcadas Arroyo, and look down into the arroyo. Therefore, a 19' tall building will have no

more impact than a 15' tall building looking into the escarpment from the subject site. As far as views from the escarpment, one would have to walk along the bottom of the arroyo in order to get views out of the escarpment. Pedestrian traffic along the bottom of the arroyo will most likely be very limited. The applicant provided a Site-Line Exhibit to demonstrate the views from the bottom of the arroyo.

The applicant has adequately demonstrated that a 19' tall home will not have a greater impact on escarpment views than a 15' tall home since there are no escarpment views from within the site. However, since the southern boundary of the subdivision is also the northern boundary of the Monument, a transition is needed between open space and development, as encouraged by the Escarpment Plan. Staff recommends that the buildings along the southern edge of the site be limited to 19' in height but the 19-foot height should be limited to 50% of the building footprint in order to prevent a block face along the Monument and to provide view windows into the Monument from within the site.

#### **4. Site Plan Review**

Policy 14 of the Escarpment Plan states, "No structure shall be placed within 50 feet of the top or the base of the escarpment face. No irrigation systems or construction or alteration of the natural terrain shall occur within 30 feet of the top or base of the escarpment face. Fences will be allowed no closer to the escarpment face than 30 feet. Any construction within the Conservation Area must be certified geotechnically sound by the City Engineer, so as not to cause a threat to the public safety." According to the site plan, lots 23 and 24 fall within 50' of the top of the escarpment face. A note should be added to the site plan that limits building construction within 50' of the top of the escarpment face.

### **CONCLUSIONS**

This is a request to amend the *Northwest Mesa Escarpment Plan* to allow single-family homes up to 19 feet within the Conservation Area and up to 24 feet within the Impact Area of the Plan and to allow measurement of the building heights from the finished grade of the site rather than the natural grade within the Sundance Estates Subdivision. The site abuts the Petroglyph National Monument. There are no views of the escarpment face from within the site.

The applicant has received DRB approvals of subdivision plats and Infrastructure Lists, which have resulted in the raising of the natural grades and installation of significant and costly improvements.

The request to measure building height from the finished grade versus the natural grade is justified in order to protect the Petroglyph National Monument from developed flows. The request for 24' high buildings within the Impact Area, measured from the finished grade to the roof midline is justified because it will not create additional visual impacts than if the 15-foot height limit were met (Policy 12-2). However, buildings should not exceed 26', measured to the top of the roofline.

The request for 19' high buildings within the Conservation Area, measured from the finished grade to the roof midline is justified because the additional 4' in height will not create additional view impacts. However, the 19' height should be limited to 50% of the building footprint.

There is mild neighborhood opposition to this request.

***FINDINGS – 07EPC-00571, November 15, 2007***

1. This is a request to amend the *Northwest Mesa Escarpment Plan* to allow single-family homes up to 19 feet within the Conservation Area of the Plan and up to 24 feet within the Impact Area of the Plan and to allow measurement of the building heights from the finished grade of the site rather than the natural grade. The site is currently zoned R-LT.
2. The subject site is known as Sundance Estates Subdivision, Phases 1A and 1B and is located immediately north of the Petroglyph National Monument between Unser and Lyons Boulevards NW. Phase 1A contains approximately 27 acres and is mostly within the Impact and View Areas of the Escarpment Plan. Phase 1B contains approximately 10 acres and is mostly within the Conservation Area of the Plan.
3. The *NW Mesa Escarpment Plan* limits structure height to 15' within the Impact and Conservation Areas of the Plan. Policy 12-2 of the Plan allows EPC approval of exceptions to the 15' height limit but in no case can the height exceed 19' from the natural grade. Structure heights exceeding 19' constitutes a Plan Amendment which requires City Council approval and approval of a site plan by the EPC.
4. Policy 12-2 requires height measurement from the natural grade which is based on the original site contours, prior to any excavation. The request to measure building heights from the finished grade constitutes a Plan Amendment which requires City Council approval.
5. Policy 19-2 of the *NW Mesa Escarpment Plan* discourages developed flows into the Petroglyph National Monument. In order to comply with this policy, the Chamisa Storm Drainage Management Plan was prepared and agreed to by the upland property owners, AMAFCA, APS, and the City. The Storm Drainage Management Plan created the need to raise the natural grade on the site in order to keep developed flows out of the Monument and out of the Piedras Marcadas Arroyo.
6. In 2006, the Development Review Board approved Preliminary and Final Plats and Infrastructure Plans for both phases of Sundance Estates. As a result, the developer has installed extensive infrastructure improvements for both phases including utilities, roadways, and retaining walls along the southern boundary of the subdivision, in order to keep developed flows out of the Petroglyph National Monument.

7. The request to measure building heights from the finished grade versus the natural grade as required under Policy 12-2 is justified for the following reasons:
  - Policy 19-2 of the *NW Mesa Escarpment Plan* discourages developed flows into the Monument, thereby requiring the natural grade on the site to be raised;
  - The Chamisa Storm Drainage Management Plan required Sundance Estates Subdivision to drain north to the Calabacillas Arroyo, thereby requiring an adjustment of the natural grade;
  - The DRB has approved development plans and infrastructure lists for Phases 1A and 1B, Sundance Estates Subdivision, resulting in adjustments to the natural grade and significant infrastructure costs to the applicant; and
  - Measuring building height from the natural grade versus the finished grade would render a majority of the site undevelopable.
  
8. Amendment of the *NW Mesa Escarpment Plan* to allow building height measurements from the finished grade shall not set a precedent for similar requests in the future
  
9. Per Policy 3-2 of the Escarpment Plan, the applicant prepared a survey which more accurately depicts the 9% slope line, south of the subject site. The 9% slope line determines the boundaries of the Conservation and Impact Areas within the Escarpment Plan. The City Engineer, City Surveyor and the Planning Director concurred with the survey and the 9% slope line.
  
10. Per the newly adjusted 9% slope line, 32 lots are within the Conservation Area and 58 lots are within the Impact Area.
  
11. Prior to development of Sundance Estates Subdivision Phase 1B, which is mostly within the Conservation Area, the property owner offered the property to the City for open space purposes. The City and the property owner could not reach agreement on a purchase price, therefore the City never acquired the property and the property owner proceeded with development of the property.
  
12. The intention of the 15' height limitation on structures within the Impact and Conservation Areas of the Escarpment Plan is to protect the views of the escarpment (Policy 12). The closest escarpment to the site is within the Piedras Marcadas Arroyo, south of the site. The escarpment is not visible from within the site or from the perimeter of the site.

13. The request for an exception to the 15' height limit in the Impact Area is justified for the following reasons:

- Design regulations for the Impact Area assume that the Conservation Area will be retained as open space and that a visual transition is needed from open space to development. Since development plans have been approved within the Conservation Area, the need for a visual transition between the Conservation Area (open space) and the Impact Area (development) is no longer necessary;
- The applicant has demonstrated that the impact of the proposed development on views to and from the escarpment as described in the plan will be the same as, or less than, the impact if the 15-foot height limit were met (Policy 12-2);
- Given the arroyo orientation, the natural contours of the land, and the narrow arroyo width at this beginning portion of the Piedras Marcadas Arroyo, the views of the vertical escarpment face are limited from the perimeter of the site;
- In 1989, the City Council approved a similar-type request per R-383, which eliminated the special building height restrictions within a portion of the Impact Area of the Paradise Bluff Subdivision, located east of the subject site; and
- The current R-LT zoning allows buildings up to 26' in height, therefore buildings in the Impact Area should not exceed 26' in height, measured to the top of the roofline.

13. The request to an exception to the 15' height limit within the Conservation Area is justified per Policy 12-2 for the following reasons:

- There are no views to the escarpment from within the Conservation Area, therefore there are no escarpment views to protect; and
- The views from the escarpment are from the bottom of the Piedras Marcadas Arroyo. The applicant has provided a Site-Line Exhibit to demonstrate the views from the bottom of the arroyo. A 19' tall building will not create a greater view impact than a 15' tall building when looking out of the escarpment.

14. In order to prevent a "block face" along the Monument and to provide view windows into and out of the Monument, buildings along the southern edge of the site should limit 19' building height to 50% of the building footprint.

15. Policy 12-2 states that exceptions to the 15' height limit will be reviewed as site plan submittals on a case-by-case basis by the EPC. The applicant provided a site plan that coincides with the approved plat for the subdivision. The site plan proposes 209 lots within the Sundance Estates Subdivision at a gross density of 5.74 du/acre. Building materials and



colors and general landscaping will be subject to the Escarpment Plan Design Overlay Zone. Maximum building heights are noted as 19' in the Conservation Area and 24' in the Impact Area, as measured from the finished floor.

16. A Facilitated Meeting was held on September 24, 2007 between the applicant and Paradise Hills Civic Association. The Association agreed that views of the escarpment are already obstructed and that 2-story homes will have no additional impact on the escarpment views. Members of the Association are more concerned with their own views of the mountains and the city and requested illustrations of the impact that 2-story homes would have on their views. The *Northwest Mesa Escarpment Plan* does not address mountain and city views.

***RECOMMENDATION – 07EPC-00571, November 15, 2007***

**That a recommendation of APPROVAL of 07EPC-00571 be forwarded to the City Council, to allow heights to be measured from the finished grade and to allow 24' tall structures within the Impact Area, based on the preceding Findings and subject to the following Conditions of Approval.**

**That the request to allow 19' tall structures within the Conservation Area, be APPROVED by the Environmental Planning Commission, based on the preceding Findings and subject to the following Conditions of Approval.**

***CONDITIONS OF APPROVAL – 07EPC-00571, November 15, 2007***

1. The EPC delegates final sign-off authority of this site development plan to the Development Review Board (DRB). The DRB is responsible for ensuring that all EPC Conditions have been satisfied and that other applicable City requirements have been met. A letter shall accompany the submittal, specifying all modifications that have been made to the site plan since the EPC hearing, including how the site plan has been modified to meet each of the EPC conditions. Unauthorized changes to this site plan, including before or after DRB final sign-off, may result in forfeiture of approvals.
2. Prior to application submittal to the DRB, the applicant shall meet with the staff planner to ensure that all conditions of approval of the site development plan are met.
3. The applicant shall restore the area within the Monument, adjacent to the subject site, to its original condition, as much as possible. The restoration should be coordinated with the City Hydrologist.

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4. The City Engineer shall certify that construction within the Conservation Area is geotechnically sound.
  
  5. Note 4 of the site plan shall be changed to read, "Maximum building heights within the Conservation Area shall be 19', measured from the finished floor to the top of the roofline. The 19' height is limited to 50% of the building footprint. Maximum building heights within the Impact Area shall be 26' measured from the finished floor to the top of the roofline."
  
  6. A note shall be provided on the site plan regarding building setbacks adjacent to the Escarpment Face. The note shall state that no buildings will be allowed within 50 feet of the Escarpment Face.
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***Carmen Marrone  
Senior Planner***

cc: Capital Alliance Investments, 6300 Jefferson St. NE, Albuquerque, NM 87109  
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***Attachments***