

**OTERO COUNTY COMMISSION
"SPECIAL" MEETING
MONDAY, APRIL 7th, 2003 1:00 P.M.**

**Commission Chairman: Michael Nivison, Commission District 3
Commission Vice-Chairman: Clarissa D. McGinn, Commission District 2
Commission Member: Doug Moore, Commission District 1**

INVOCATION

PLEDGE OF ALLEGIANCE

"I pledge allegiance to the flag of the United States of America, and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all."

SALUTE TO THE FLAG OF NEW MEXICO

"I salute the flag of the state of New Mexico, and the zia symbol of perfect friendship among united cultures."

	<u>PAGE NO.</u>
1:00 P.M.	
Susan J. Phillips - Requesting an Encroachment and Hold Harmless Agreement from the Otero County Commission.	1-6
<u>Ratify</u> - Resolution No. 04-01-03/91-30 regarding Miles of Roads Maintained by Otero County as of January 1, 2003.	7-8

"Public Input"/Request to Appear on the Otero County Commission Agenda
(Please provide "ALL" documentation with your request)

Name of Individual Appearing: SUSAN J. PHILLIPS

Address/City/State/Zip Code: 30 LAKEVIEW DR

Phone Number: 505-687-2232 Today's Date: 3-31-03

Additional Contact Information-Fax# 434-0802 Cell# 430-2234

Alternate Phone# 494-0800 E-mail SUZIE.A@NETMDC.COM

NOTE: Please call LaDonna Adams in the Administration office at (505) 437-7427 to determine if your item is on the final agenda prior to the County Commission Meeting date. Any Individual requesting to appear before the Board of County Commissioners, will have to attend the worksession(s) one week prior to the commission meeting. Due to previous commitments, etc. it is not always possible to have the date and time that you have requested.

Brief Statement Identifying the Topic or Subject Matter to be Discussed:

REQUEST FOR PERMISSIVE ENCRACHMENT for 30 LAKEVIEW DR
IN WATERFALL

Brief Statement Setting Forth the Desired Action from the Commission:

APPROVE PERMISSIVE ENCRACHMENT AND HOLD HARMLESS
AGREEMENT FOR 30 LAKEVIEW DR

Any Special Equipment or Aids needed for the Presentation? (projectors, easels,) yes no

Estimated Cost(s) to the County: NONE

Estimated time required on Commission Agenda: 10 minutes

TO BE FILLED OUT BY COUNTY STAFF

"Special"
Commission Meeting Date: April 7th, 2003 (Mon) 1:00pm

Department Supervisor
Recommendation: _____

Background/Research Information: _____

Email: oteroadm@co.otero.nm.us
COMMISSION / ADMINISTRATION
(505) 437-7427
FAX (505) 443-2904



1000 NEW YORK AVE., RM 101
ALAMOGORDO, NM 88310-6935

State of New Mexico
County of Otero

April 1, 2003

Otero County Commission
1000 New York Avenue
Alamogordo, NM 88310

Re: encroachment in Waterfall Sub.

Dear County Commission:

On March 28, 2003, I inspected the resident at 30 Lake View Drive in Waterfall Subdivision in regards to an encroachment on a county easement. I see no future problem with this encroachment as to the maintenance of our county road. Lake View Drive is 20 to 24 ft. wide in that area and could be widened out on the other side if needed in the future. If you need any additional information please call me at 437-7636.

Sincerely,

A handwritten signature in cursive script that reads "Bill Lee Parker".

Bill Lee Parker
Road Superintendent

ENCROACHMENT AND HOLD HARMLESS AGREEMENT

THIS AGREEMENT is made this _____ day of _____ 2003, by and between THE BOARD of COUNTY COMMISSIONERS OF OTERO COUNTY, whose address is 1000 New York Ave., Room 101, Alamogordo, New Mexico 88310-6935, hereinafter referred to as "County," and JOHN B. PHILLIPS, III and SUSAN J. PHILLIPS, husband and wife, whose notice address is P O Box 894, Cloudcroft, NM 88317, and their physical address is 30 Lakeview Drive,(A Tract of Land in the SW ¼ SE ¼ of Section 14, T 16 S, R 12 E, NMPR, Otero County), Cloudcroft, NM 88317, hereinafter referred to as "Phillips."

WHEREAS the County is the holder of the public dedication of those certain roads rights of way located in the Waterfall subdivision, more commonly known as Lakeview Drive and Waterfall Drive, and

WHEREAS the Phillips' are the owners in fee simple of the property described as A Tract of Land in the SW ¼ SE ¼ of Section 14, T16 S, R12 E, NMPM., Otero County, New Mexico and being more particularly described as follows:

Starting at the Southwest corner of the Southwest quarter of the Southeast quarter of section 14; thence South 89° 59' East a distance of 189.71 feet; thence North 00° 12'30" West a distance of 146.65 feet to the Southwest corner and point of beginning of the herein described tract of land; thence continuing North 00° 12'30" West a distance of 173.98 feet; thence North 89° 38'30" East a distance of 29.45 feet; thence Northeasterly along a curve to the left whose radius is 275 feet through an arc of 45°00'27" an arc distance of 216.02 feet; thence South 00°21'30" East a distance of 402.67 feet; thence North 89°59' West a distance of 63.70 to a point on the centerline a distance of a 40 foot easement for an existing road. Thence North 34°06'15" West along said centerline a distance of 66.35 feet; thence North 61°26' West continuing along said centerline a distance of 122.88 feet; Thence North 26°32' West continuing along said centerline a distance of 36.88 feet to the point of beginning. And

WHEREAS the parties acknowledge that there currently exists on the Phillips' property a garage, a chain link fence, a drive way, a 2 foot rock wall, and a carport which has been constructed directly adjacent to the County's right of way which is known as "Lakeview Drive" and which encroaches into the right of way, and

WHEREAS there also exists a patio slab and rock wall and a guest house which has been constructed directly adjacent to the County's right of way which is known as "Waterfall Drive" and which encroaches into the right of way; and

WHEREAS the parties acknowledge and agree that the described improvements may remain

in their present location for so long as they remain standing without significant rebuilding or remodeling, provided that in the event that the described improvements should be removed or destroyed by any cause or for any reason whatsoever, that they shall not be rebuilt in their present location, but shall be reconstructed in such a manner so as to not continue the encroachment; and

WHEREAS the Phillips' understand and agree that they shall obtain no legal title to the encroached upon property by adverse possession or otherwise; and

WHEREAS the Phillips' and the County agree to indemnify and hold harmless, Alamogordo Title Company, P.O. Box 88, Alamogordo, New Mexico 88311, and their successors and assigns with respect to the above referenced encroachment.

THEREFORE IT IS MUTUALLY STIPULATED AND AGREED AS FOLLOWS:

1. The County is the holder of the public dedication of that certain road rights of way located in the Waterfall Subdivision, more commonly known as "Lakeview Drive" and "Waterfall Drive".
2. The Phillips' are the owners in fee simple of the property described as A Tract of Land in the SW ¼ SE ¼ of Section 14, T16 S, R12 E, NMPM., Otero County, New Mexico and being more particularly described as follows:

Starting at the Southwest corner of the Southwest quarter of the Southeast quarter of section 14; thence South 89° 59' East a distance of 189.71 feet; thence North 00° 12'30" West a distance of 146.65 feet to the Southwest corner and point of beginning of the herein described tract of land; thence continuing North 00° 12'30" West a distance of 173.98 feet; thence North 89° 38'30" East a distance of 29.45 feet; thence Northeasterly along a curve to the left whose radius is 275 feet through an arc of 45°00'27" an arc distance of 216.02 feet; thence South 00°21'30" East a distance of 402.67 feet; thence North 89°59' West a distance of 63.70 to a point on the centerline a distance of a 40 foot easement for an existing road. Thence North 34°06'15" West along said centerline a distance of 66.35 feet; thence North 61°26' West continuing along said centerline a distance of 122.88 feet; Thence North 26°32' West continuing along said centerline a distance of 36.88 feet to the point of beginning. ~~And~~

3. The parties acknowledge that there currently exists on the Phillips' property a garage, a chain link fence, a drive way, a 2 foot rock wall, and a carport which has been constructed directly adjacent to the County's right of way which is known as "Lakeview Drive" and which encroaches into the right of way, and that there also exists a patio slab and rock wall and a guest house which has been constructed directly adjacent to the County's right of way which is known as "Waterfall Drive" and which encroaches into the right of way.
4. The parties acknowledge and agree that the described improvements may remain in their present

location for so long as they remain standing without significant rebuilding or remodeling, provided that in the event that the described improvements should be removed or destroyed by any cause or for any reason whatsoever, that they shall not be rebuilt in there present location, but shall be reconstructed in such a manner so as to not continue the above referenced encroachment.

5. The Phillips' understand and agree that they shall obtain no legal title to the encroached upon property by adverse possession or otherwise.
6. The Phillips' and the County agree to indemnify and hold harmless Alamogordo Title Company and their successors and assigns with respect to the above referenced encroachment.

BOARD OF COUNTY
COMMISSIONERS

PHILLIPS'

CHAIRMAN, MICHAEL NIVISON

JOHN B. PHILLIPS, III

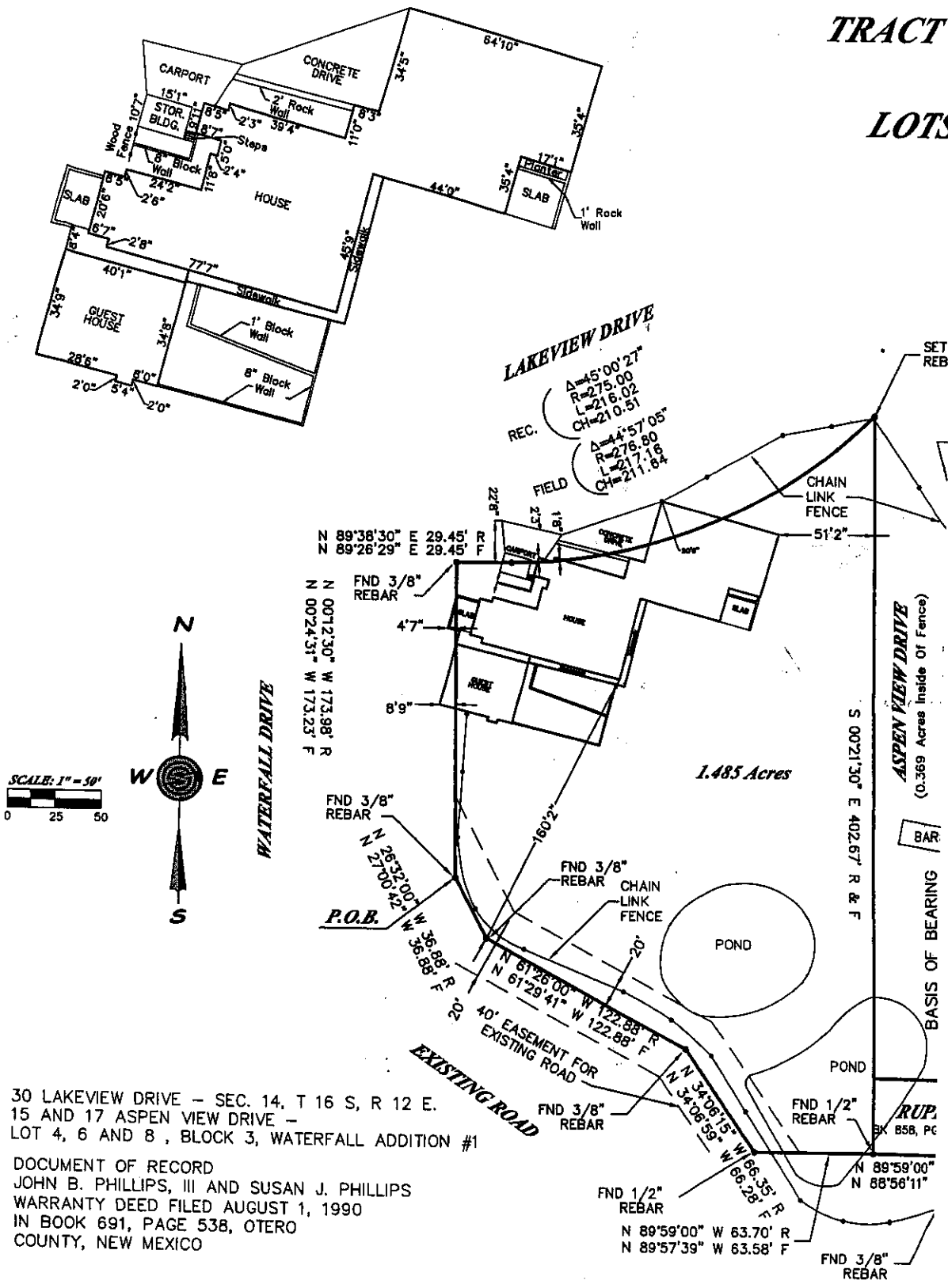
COUNTY CLERK, MARY D. QUINTANA

SUSAN J. PHILLIPS

APPROVED: April 15th, 2003

TRACT

LOTS



30 LAKEVIEW DRIVE - SEC. 14, T 16 S, R 12 E.
 15 AND 17 ASPEN VIEW DRIVE -
 LOT 4, 6 AND 8, BLOCK 3, WATERFALL ADDITION #1

DOCUMENT OF RECORD
 JOHN B. PHILLIPS, III AND SUSAN J. PHILLIPS
 WARRANTY DEED FILED AUGUST 1, 1990
 IN BOOK 691, PAGE 538, OTERO
 COUNTY, NEW MEXICO

 **Construction Surveying Services**
 1015 Oregon Alamogordo, NM 88310

THIS IS TO CERTIFY THAT THE
 FIELD SURVEY DONE BY ME,
 CORRECT, MEETING THE M
 ADOPTED BY THE NEW MEXIC
 AND SURVEYORS, TO THE BE

**AGENDA REPORT
OTERO COUNTY COMMISSION**

MEETING DATE: April 7, 2003

REPORT DATE: April 1, 2003

SUBMITTED BY: Ruth Hooser

APPROVED FOR AGENDA: 

Subject: Ratify-Resolution No. 04-01-03/91-30 regarding Miles of Roads
Maintained by Otero County as of January 1, 2003.

Additional Explanation:

Department Supervisor Recommendation:

Background/Research:

Approved/Reviewed By: BCC- _____, Chairman

Disapproved: (circle one)

Vice-Chairman _____ **Member** _____

Dated: _____

Road Dept: _____ **Attorney:** _____ **Purchasing:** _____

Detention: _____ **Treasurer:** _____ **Clerk:** _____

Assessor: _____ **Sheriff:** _____ **Indigent:** _____

County Administrator: _____ **Asst. County Administrator:** _____

Email: oteroadm@co.otero.nm.us
COMMISSION / ADMINISTRATION
(505) 437-7427
FAX (505) 443-2904



1000 NEW YORK AVE., RM 101
ALAMOGORDO, NM 88310-6935

State of New Mexico
County of Otero

RESOLUTION NO. 04-01-03/91-30

**Re: Miles of Roads Maintained by
Otero County as of January 1, 2003**

WHEREAS, it is the responsibility of county government to provide maintenance of roads within the jurisdictions; and

WHEREAS, New Mexico law provides financial resources to counties based partially on the total road miles maintained.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that the Board of County Commissioners in and for the County of Otero, hereby certifies the attached listings as the roads maintained by Otero County on January 1, 2003 which are further reflected on the accompanying maps.

RESOLVED, this 1st day of April 2003.

**BOARD OF COUNTY COMMISSIONERS
OTERO COUNTY, NEW MEXICO**

ATTEST:


Mary D. Quintana, County Clerk

(seal)


Michael Nivison, Chairman

Clarissa McGinn, Vice-Chairperson



Doug Moore, Member