

MINUTES OF THE
SANTA FE COUNTY
DEVELOPMENT REVIEW COMMITTEE

Santa Fe, New Mexico

October 18, 2012

This meeting of the Santa Fe County Development Review Committee (CDRC) was called to order by Juan José Gonzales, on the above-cited date at approximately 4:00 p.m. at the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Roll call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

Members Present:

Juan José Gonzales, Chair
Susan Martin, Vice Chair
Phil Anaya
Dan Drobnis
Frank Katz
Sef Valdez

Member(s) Excused:

Maria DeAnda

Staff Present:

Rachel Brown, Deputy County Attorney
Vicki Lucero, Building & Development Supervisor
John Lovato, Building & Development Services
Jose Larrañaga, Development Review Specialist
Buster Patty, Fire Captain
Miguel Romero, Building & Development Services

IV. APPROVAL OF THE AGENDA

Vicki Lucero announced that VIII. B, Case #Z/S 08-5430, Spirit Wind West Subdivision, and VIII. C. Case #Z/S 08-5440, Tierra Bello Subdivision, were tabled.

Member Katz moved to approve the agenda as amended. His motion was seconded by Member Martin and passed by unanimous [6-0] voice vote.

V. APPROVAL OF THE MINUTES: September 20, 2012

Member Martin moved to approve the minutes as published. Her motion was seconded by Member Katz and passed by unanimous [6-0] voice vote.

VI. CONSENT FINAL ORDER

- A. CDRC CASE # APP 12-5110 William Frederick Wagner Appeal. William Frederick Wagner, Applicant, (Sommer, Karnes & Associates, LLP), Joseph Karnes, Agent, Requested an Appeal of the Land Use Administrator’s Decision to Deny a Family Transfer Land Division (Case # 11-3090) Of 31.824 Acres Into Two Lots; One Lot Consisting of 20.990 Acres and One Lot Consisting Of 10.834 Acres. The Property is Located At 45 La Barbaria Trail, Within Section 9, Township 16 North, Range 10 East, (Commission District 4). Denied 4-3, Wayne Dalton.

Member Martin moved approval and Member Katz seconded. The motion passed by unanimous [6-0] voice vote.

VII. NEW BUSINESS

- A. CDRC CASE #V 12-5120 John & Virginia Kraul Variance. John & Virginia Kraul, applicants, request a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow two dwelling units on 0.90 acres. The property is located at 7 Camino La Llorona, within the Traditional Community of Canada de Los Alamos, within Section 27, Township 16 North, Range 10 East, Commission District 4
[Exhibit 1: Letter and petition opposing the variance]

Miguel Romero reviewed the staff report as follows:

“The Applicants request a variance of Article III, Section 10, Lot Size Requirements, of the Land Development Code to allow two dwelling units on 0.90 acres. The subject lot was created in 1998, by way of a Family Transfer. There is currently a residence, which is a modular unit, a modular unit with bath facilities which is the proposed dwelling, an accessory structure used for storage, a garage, and a proposed storage shed on the property. The proposed residence is a 625 square foot modular unit.

“In March of 1998, the Applicants obtained a permit for an accessory structure. The structure was then converted into a dwelling unit which the Applicants’ sister resides in. On October 7, 2011, a Notice of Violation was issued for exceeding density. The Applicant has converted the unit back to an accessory structure which was verified through an inspection and is now in compliance with what was permitted in 1998.

“The Applicant states, a variance is needed due to his sister’s medical condition. The Applicants’ sister has not had an income. The Applicants claim providing their sister with an affordable place to reside would provide their sister with emotional and financial support, along with peace of mind that she will have a place to call home and will also insure she has care and support from her family in the future.”

Mr. Romero said staff has reviewed the application for compliance with the code and finds the request is not in compliance with County code. Staff recommends denial of this variance from Article III, Section 10 of the Land Development Code. If the decision of the CDRC is to recommend approval of the Applicants’ request, staff recommends imposition of the following conditions:

1. Water use shall be restricted to 0.50 acre-feet per year per home. A water meter shall be installed for each residence. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk’s Office (As per Article III, § 10.2.2 and Ordinance No. 2002-13).
2. The Applicant must obtain a development permit from the Building and Development Services Department for the additional dwelling unit. (As per Article II, § 2).
3. The Applicant shall provide an updated liquid waste permit for both homes from the New Mexico Environment Department with the Development Permit Application (As per Article III, § 2.4.1a.1 (a) (iv)).
4. The placement of additional dwelling units or Division of land is prohibited on the property. (As per Article III, § 10).
5. The Applicant shall comply with all Fire Prevention Division requirements at time of development permit Application (As per 1997 Fire Code and NFPA Life Safety Code).

Chair Gonzales asked when the first residence was constructed on the property. Mr. Romero said the residence was permitted in 1994 before the lot split occurred. The Chair asked if staff knew when the accessory structure was converted to a dwelling and staff response was no.

John and Virginia Kraul, applicants and Miguela Martinez, were duly sworn before the Committee. Mr. Kraul requested that the Committee help them out as all he is trying to do is help out his sister. He said there were neighbors that had smaller parcels with a couple of dwellings.

Miguela Martinez, the applicants’ sister, said her husband, a Viet Nam veteran, died and since that time she has been “really lost.”

Referring to a petition [*Exhibit 1*], Member Martin asked the applicant who Joyce and Edward are. Mr. Kraul responded it was his brother and sister-in-law.

Joyce and Edward Kraul were duly sworn. Edward Kraul asked how the Committee obtained the petition that he had submitted to staff. Chair explained that staff provided it. Edward Kraul said they have additional signatures of Cañada de Los Alamos villagers opposing the variance. [*Exhibit 2: Petition with additional signatures*]

Joyce Kraul said they were in opposition to the variance request because the lot is extremely small, contains a great many vehicles and creates a safety issue for the other residents in the area. She said the applicants' lot is the first one on a road that serves seven lots.

Edward Kraul said the 1998 recorded plat locates a studio, septic system and well in different locations than the packet information provided. He said he has four lots all adjoining the that of the applicants. Three of his lots have a dwelling and one is vacant. Speaking as a Cañada resident since 1958, he said the lots are not adequate to handle more than one dwelling. Joyce Kraul added that there are smaller lots in Cañada that are grandfathered in.

Edward Kraul said the people that signed the petition are particularly concerned about the septic system which is 500 yards from the community well.

Edward Kraul said he acquired his property in 1978 and the applicants acquired theirs in 1998. He explained that he purchased properties in 1981, 2004 and 1997.

Amada Kraul Rodriguez and Gabriella Villas, both residents of La Llorona were duly sworn. Ms. Rodriguez said they both live across from the property and the roads are perfectly fine. She said her aunt, Miguela Martinez, gave her the property she lives on.

Ms. Villas said she got her property from her uncle and has two kids. She said she feels her children are safe and the road is not an issue.

In response to Member Katz' question of how they acquired their properties, Ms. Rodriguez said her grandfather and grandmother deeded the properties to their children and she received it from her family. Ms. Villas received hers from her uncle.

There were no other speakers on this case.

Chair Gonzales remarked on the difficulty of making a determination on hardship cases. He asked staff if an approval with a time limitation could be considered.

Ms. Lucero said the code defines variance hardships as those related to topographical not financial or medical needs. The code does not address temporary variances.

Member Katz said he appreciated the applicants' desire to assist their family and said the minimum lot size within the Code, along with the opposition makes this difficult to approve. The GIS map shows the property in question to be of a far greater density than others in the area and the fact the applicants' sister gave her property away adds to the inappropriateness of the variance.

Member Katz moved to deny CDRC Case V 12-5120. His motion was seconded by Member Martin and passed by majority [4-2] voice vote with Chair Gonzales and Member Anaya voting against.

- B. CDRC CASE # V 12-5290 William Keller Variance: William Keller, Applicant, requests a variance of Section 9.8 (Mountain Special Review District Standards) to allow an addition to an existing residence to exceed 14 feet in height on 13 acres. The property is located at 20 La Barbaria Road, within the vicinity of Old Pecos Trail, Within Section 17, Township 16 North, Range 10 East (Commission District 4)**

John Lovato, case manager, provided the staff report as follows:

“The Applicant requests a variance of Section 9.8, Mountain Special Review District Standards, to allow an addition to an existing residence to exceed 14 feet in height. The subject lot was created in 1996, and is recognized as a legal non-conforming lot. There is currently one dwelling unit on the property and an accessory structure/shed. The structure on the property is recognized as a legal non-conforming structure which was constructed in 1974. The proposed addition to the existing residence would exceed height requirements but would match the height of the existing residence of twenty feet nine inches.

“The proposed addition would consist of an office, a laundry room, and a walk-in master closet. Currently, the existing structure consists of a master bedroom, a master bath, a weight room, and a study area. The existing structure has a flat roof, and the proposed addition will match the existing residence. The proposed addition will be located on the eastern portion of the residence and will not be visible from any major arterial but will be visible from La Barbaria Road.

“Ordinance No. 2009-01 repealed Ordinance No. 1997-4, Extraterritorial Zoning Ordinance, with the exception of Section 9.8, Mountain Special Review District. Therefore, this Application is governed by Section 9.8 MSRD Standards which limits the height of structures with a flat roof to 14 feet and 18 feet for pitched roofs.

“The Applicant states, a variance is needed due to the addition greatly improving the usability of the residence and would accommodate more room for his aging father-in-law and provide privacy. The Applicant further states the appearance of the proposed addition is located on the eastern portion of the residence and would match the existing upper level.”

Mr. Lovato stated that staff has reviewed the application for compliance with pertinent Code requirements and finds the project is not in compliance with County

criteria for this type of request. Staff recommends the request be denied based on the Mountain Special Review District Standards.

If the CDRC were to approve this request, Mr. Lovato requested the following conditions be imposed:

1. The Applicant shall comply with all Fire Prevention Division requirements at time of development permit application (As per 1997 Fire Code and NFPA Life Safety Code).
2. The Applicant must obtain a development permit from the Building and Development Services Department for the proposed addition. (As per Article II, § 2).

Mr. Lovato confirmed for Member Katz that the denial is based on the height of the request and that the property is not within the annexation area according to the Settlement Agreement.

According to Ordinance 2009-01, Section 8, this property is to be governed by the County's Land Development Code, asserted Member Katz: "Regulation of zoning and planning and platting of property within the extraterritorial zoning and planning and platting authority outside the Presumptive City Limits shall be governed by the Santa Fe County Land Develop Code..." He asked whether there were height limits in the County's Land Development Code that should be reviewed. Deputy Attorney Brown said the County's height limit is 24 feet.

Having reviewed Ordinance 2009-01, Ms. Brown indicated that it repeals the EZO with the exception of the provision that is before the Committee. The County Code will govern and include established community districts, i.e., the Mountain Special Review District.

Mr. Katz said that interpretation concerned him because it flies in the face of the intent of the ordinance when the City and County came to an agreement on the annexation and settled the lawsuit. The areas not to be annexed were to be governed by the County under County rules. He mentioned the City's Escarpment Ordinance and properties that would fall under that ordinance are within the proposed third phase of annexation. He said he disagreed with the County's interpretation.

Chair Gonzales requested that the Committee consider the information as provided by the County attorney.

Duly sworn, Bryan Berg, neighbor to the applicants and acting as agent, stated that he appreciated that the Committee avoids setting precedents; however, the dwelling was built in 1974 and requires modification. The variance would not give the applicant anything that is not already present and the only change is arrangement of windows. Using a photo of the existing dwelling he demonstrated how the addition would match the architecture and the existing height. The variance will allow the applicants to make better use of the upper portion of their home.

The property is included in the MSRD by a mere 20 feet in elevation, stated Mr. Berg. There is a great deal of tree coverage and the house is well screened. He mentioned that the applicant notified the neighbors and there was opposition to the request.

Duly sworn, applicants Chris and Kathy Stoia addressed the Committee. Mr. Stoia said William Keller is his father in-law and the property is in his name. Mr. Keller is 81 and the three of them have been living together for three years and will be moving to this home together. He said enlarging the second floor will help to accommodate their father in-law's necessities.

Ms. Stoia said including the garage the home is approximately 2,700 square feet. The addition is approximately 500 square feet.

Mr. Berg said it was rather ironic that the addition is being hampered by the MSRD when a recent survey showed it was at an elevation of 7,020 feet, "20 feet less it would not be subject to these regulations."

There was no else present wishing to speak regarding this case.

Based on the information provided by the applicant, Member Anaya moved to approve the variance with staff-imposed conditions. Member Martin seconded and the motion passed by unanimous [6-0] voice vote.

[The following case is presented verbatim]

C. CDRC CASE # V 12-5280 Kimberley Moseley Variance. Kimberly Moseley, Applicant, (Rubin Katz, Ahern, Herdman & MacGillivray, P.A.) Frank Herdman, agent, request a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow two dwelling units on 11 acres. The property is located at 24 South Cloudstone Drive, within Section 5, Township 16 North, Range 10 East, Commission District 4

[Exhibit 3: Fire Prevention Division: Official Submittal Review 10/2/12]

MIGUEL ROMERO: Thank you, Mr. Chair. Kimberly Moseley, Applicant, Frank Herdman, agent, request a variance of Article III, Section 10 of the Land Development Code to allow two dwelling units on 11 acres. The property is located at 24 South Cloudstone Drive, within Section 5, Township 16 North, Range 10 East, Commission District 4.

CHAIR GONZALES: Mr. Romero is your mike on?

MR. ROMERO: The Applicant requests a variance of Article III, Section 10, Lot Size Requirements, of the Land Development Code to allow two dwelling units on 11 acres. The subject lot was created in 1976, and is recognized as a legal non-conforming lot. There are currently two dwelling units on the subject property. The structures consist of a main residence and a guesthouse. The main residence was permitted in 1999, permit number 99-090. On January 22, 1999, the previous property owners were written a letter by Santa Fe County Land Use staff stating that the kitchen facilities must be removed from the existing structures which is the guest house within six months of the main house being completed. This letter was agreed to and signed by the previous property owners.

On February 13, 2012, Santa Fe County Building and Development Services Department received a written complaint regarding the Applicants' guesthouse. On February 16, 2012, the Applicant received a Notice of Violation from Santa Fe County Code Enforcement for exceeding density requirements.

The Applicant states that during their search for a home, they were shown the property at 24 South Cloudstone Drive, which included a detached guesthouse with a full kitchen along with a main residence. The Applicant claims the guesthouse was advertised as being permitted with a kitchen and approved for full-time occupancy. The Applicant advised the sellers that as part of their search for a home, their intension was to move their elderly parents from California to provide assistance for them. In December 2010, the Applicant purchased the property at 24 South Cloudstone Drive. The Applicant feels the purchase of the property which included a guesthouse and main residence was misrepresented by the sellers by advertising two dwelling units Growth Management staff have reviewed this Application for compliance with pertinent Code requirements and finds the project is not in compliance with County criteria for this type of request.

Staff's recommendation was denial of a variance from Article III, section 10, Lot Size Requirements, of the Land Development Code. If the decision of the CDRC is to recommend approval of the Applicant's request, staff recommends imposition of the following conditions. Mr. Chair, may I enter these into the record?

1. *Water use shall be restricted to 0.25 acre-feet per year per home. A water meter shall be installed for each residence. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office (As per Article III, § 10.2.2 and Ordinance 2002-13).*
2. *The Applicant must obtain a development permit from the Building and Development Services Department for the second dwelling unit (As per Article II, § 2).*
3. *The Applicant shall provide an updated liquid waste permit from the New Mexico Environment Department with Development Permit Application (As per Article III, § 2.4.1a.1(a) (iv).*
4. *The placement of additional dwelling units or Division of land is prohibited on the property (As Per Article III, Section 10).*
5. *The Applicant shall comply with all Fire Prevention Division requirements (As per 1997 Fire Code and 1997 Life Safety Code).*

CHAIR GONZALES: Yes, you may. Do you have any questions of staff? If not, I've got a couple. Oh, I'm sorry.

MEMBER DROBNIS: Mr. Chair, is there any evidence that the kitchen was ever removed in compliance with the agreement?

MR. ROMERO: Mr. Chair, committee members, from my understanding, when Code Enforcement went out to conduct their inspection I believe that they did do an inspection of the guesthouse to find that there was a full kitchen in the guesthouse.

MEMBER DROBNIS: Was this at the time of the agreement that was signed with the previous owners?

MR. ROMERO: This was at the time of the complaint now in 2012.

MEMBER DROBNIS: All right. I understand. Thank you.

CHAIR GONZALES: Any other questions?

MEMBER KATZ: To follow up on that if I may.

CHAIR GONZALES: Mr. Katz.

MEMBER KATZ: You don't know whether the kitchen was ever removed?

MR. ROMERO: Mr. Chair, committee members, at that time, I don't know if it was ever removed, at that time of the previous homeowners.

MEMBER KATZ: Thank you.

MR. ROMERO: There was, however, a letter that was written by County staff advising that it had been removed, so at some point in time the assumption would be that staff did an inspection and observed a full kitchen in the guesthouse.

CHAIR GONZALES: Any other questions of staff? If not, I've got a couple of questions. The letter that was sent to the previous owners, is there any indication that it was re-inspected other than by notifying them by a letter?

MR. ROMERO: Mr. Chair, committee members, I can't answer that question. I don't know if at that time in 1990 whether or not staff did a follow-up of the guesthouse to see if the kitchen was removed.

CHAIR GONZALES: Okay. Thank you. I think the other question is what led to the Notice of Violation being posted at the property?

MR. ROMERO: Mr. Chair, committee members, there was a written complaint that was brought to the attention of the Building and Development Services Department.

CHAIR GONZALES: Okay. Thank you. And did you ever have any discussion with the sellers regarding that letter? Was there any discussion with the sellers?

MR. ROMERO: I didn't contact the previous owners. I believe the applicant did but I have had no communications with the previous owners.

CHAIR GONZALES: Okay. Thank you. Mr. Katz.

MEMBER KATZ: Let me follow up on your questions, Mr. Chair. The letter where they said that they would remove the kitchen was part of getting permitted to build the main house; is that correct?

MR. ROMERO: That is correct.

MEMBER KATZ: And so one would have suspected that there would have been inspectors out there regularly as that main house was being built.

MR. ROMERO: That could be correct. I don't know how things were run at that time, compared to now.

MEMBER KATZ: And they were given a six-month period of time in any case to remove the kitchen.

MR. ROMERO: Mr. Chair, committee members, that is correct.

CHAIR GONZALES: Thank you. Any other questions. If not, is the applicant here?

FRANK HERDMAN: The applicant is. My name is Frank Herdman and I'm here representing the applicant. The applicant is here as well as Dr. Bill Dougherty and Mary and Harry Dougherty. And you'll hear from most of them.

Again, I represent the applicant in this case. As you have gathered this case involves the request to permit a guesthouse kitchen to remain in place where it has been, to our knowledge for nearly 20 year. And I want to emphasize to our knowledge, we're talking about a condition that has been in existence for nearly 20 years with no detriment, to my knowledge, to anybody.

This is an extremely important kitchen, as it turns out because that kitchen is critical to a living arrangement that allows Dr. Bill Dougherty and Dr. Kimberly Moseley – again, both here today – to care for and watch over Dr. Dougherty's elderly parents and that is Harry and Mary who are here as well. Dr. Dougherty and Dr. Moseley moved to Santa Fe within the last two years to work at the Christus St. Vincent Hospital where they are trauma surgeons. When they relocated to Santa Fe they searched for a home that would allow them to care for Dr. Dougherty's elderly parents. That was their plan from day one. They looked at a lot of houses and they looked at this one. Dr. Dougherty's parents are in – they're elderly. They're in their eighties. They have limited mobility and I will let them tell you more about the conditions, their current health conditions. But simply put, they're at a condition that they need somebody to watch over and care for them.

So the plan in relocating to Santa Fe was to find a property that would allow Dr. Moseley and Dr. Dougherty to live on the same property with Dr. Dougherty's elderly parents so that they could care and watch for them. They were shown this particular property at 24 South Cloudstone and it met that particular need, because the main house – their property includes the main house, a separate detached guesthouse and the guesthouse was presented to them as a fully inhabitable dwelling structure including the kitchen, bathrooms, bedrooms, etc. And it was represented to them that that guesthouse could be used as a separate dwelling unit for Dr. Dougherty's elderly parents. The sellers were aware of that particular need in the plan.

At no time were they made aware or informed of any restrictions, including the letter to which Mr. Romero has referred that was signed in 1999. So they bought the house in December of 2010 and they spent a considerable sum of money to get the guesthouse suitable for Dr. Dougherty's parents. And, again, you'll hear more from them about the changes that were made to the guesthouse as well as the physical conditions that mandated those changes. We're not talking about major changes; they were expensive. Suffice it to say that those changes were made in order to make one level floor, to swap out appliances because, for example, the gas range in the house was not appropriate because they're both on oxygen. There were other changes as well to accommodate their health conditions and their limited mobility.

So everything was going as per plan. They bought the house, they moved into the house and they were then served with a notice of violation stating that the kitchen in the guesthouse had to be removed. There was a question about that notice of violation. You may recall Mr. Shapiro, he was before you at your last meeting. You denied his variance for very good reasons and you denied his variance because, as Mr. Katz expressed his concerns, Mr. Shapiro was building a new house. He committed within the – that house was under construction. It was not a house that was built in 1992 as was this guesthouse.

He committed and he in fact signed an affidavit saying that the guesthouse would not include a kitchen. He disregarded that kitchen – I mean that affidavit. He got busted. He came before you and you know what else he did? He went around and said I think there's other people in the neighborhood who have guesthouses.

So it's not, I expect you're going to hear from him, but it's not because he's concerned about guesthouses in his community that have kitchens. We know that full well because he tried to put one in his house. So in response to the complaint that was issued by – or that was made by Mr. Shapiro, the applicants in this case received a notice of violation and they learned for the first time that the guesthouse was built in 1992. This sort of helps with the chronology. There was a permit issued in 1999 – I'm sorry, 1992, for the main house and the guesthouse. And I have the County-approved plans here with me today if anyone has any questions.

As it turns out, the owners at the time who sold the house to the applicants built the guesthouse first. They did not proceed with the main house. They then renewed or got another building permit in 1999 to build the main house. That's what we've learned since the notice of violation was served. And, then, based on this letter stating that within six months of completion of the main house they'd remove the kitchen. To our knowledge they didn't do that. They also didn't tell the applicants that they had signed such a letter and that they had failed to comply with it.

So we're asking for a variance that would that kitchen which has been there nearly 20 years to stay as it has been. And if the kitchen has to be removed and the current living condition, which is a very important living condition for this family will come to an end. And that's because Dr. Dougherty's elderly parents cannot depend on the kitchen in the main house for their living needs. Dr. Dougherty's parents – they have limited mobility and they're on oxygen. The main house is approximately 100 feet away. I've been there myself. I'm prepared to testify under oath to these facts. There are numerous steps that have to be climbed to get into the main house. And that's true no matter what entry you go in, whether it's the garage – there's actually more steps if you go through the garage than there are the front door, but there's many on both and they're hard either wood or flagstones. They're dangerous. Mary has already fallen once.

Once you get into the main house that main house has five different levels. This is in a hilly area; it's in the foothills and we know how these houses are generally constructed. They're constructed to comport with the terrain and so you expect to have multiple levels. And that's what they have. The floors are tiled. They are hard. They are dangerous. They have limited mobility, bad back and other conditions that cause that condition to be dangerous. In addition, the range, the stove in the main house is gas and so you can't be on oxygen and be in proximity to a gas stove.

So it won't work. And so if the variance is not granted then this caring relationship comes to an end. So there is a very real hardship if the variance is not granted and the problem is obviously due to circumstances over which they had no control.

And I want to get into a little legalese if you will indulge me here, because I know in the first case you had this afternoon there was a discussion and question to staff about hardship and what is the type of hardship that is recognized as grounds for a variance under the code. And I respectfully disagree with staff that it is strictly related to topography. Section 3.1 that includes the variance criteria states very specifically – let me find it here. It's in your packet materials as well. It states that where in the case of

proposed development it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of one, unusual topography, or other such non-self-imposed conditions.

And so the code recognizes unusual topography but it also recognizes other non-self-inflicted conditions generally as the grounds for a variance. And I expect that Committee Member Katz is aware of the case of *Paule v. Santa Fe County Board of County Commissioners*. We actually have a New Mexico Supreme Court case that interprets Section 3.1 and the very language that I just read. Again, indulge me here for a moment. I'm going to be a real lawyer, but I think that this is important, because this is the current state of the law as recognized by the highest state in this court [sic] interpreting the statute which is the basis for your decision today.

In that particular case the applicant had a piece of property. They wanted to build a cell tower. Well, the height restriction for that piece of property was 24 feet. They wanted 198 feet, because that's what they needed to meet their technological needs for that cell tower. And in this particular case, in that case the court recognized what's called a dimensional variance. A dimensional variance is a request for an exception from physical limitations. That's what we have in this case: kitchen, no kitchen. It's a physical attribute of the property. So in that particular case the Board of County Commissioners granted a variance and it was upheld by the New Mexico Supreme Court.

And one of the things that the New Mexico Supreme Court recognized as a legitimate consideration in granting the variance was the proposed use of the property, in this case the Commission – I'm reading from the case – the Commission found that the special – that were special conditions relating to wireless communications. In other words, there were special needs associated with the use of the property. And then they went on to say that the hardship, the term hardship is not defined in the code. And they said under the standard that becomes applicable to dimensional variances, multiple factors may be considered in deciding whether to grant a dimensional variance, including the economic detriment to the applicant if the variance is denied. Okay?

So in all due respect to staff, your ability to go beyond just hills, ditches, arroyos is permitted in your code and that has been recognized by the New Mexico Supreme Court.

In this particular case we have hardship I would suggest to you is different than the type of hardship you find in a lot of the cases that you find in that most of the cases that you have before you for variances are requests for a proposed, anticipated use of the property. I would like to use my property for this particular use. I want to have an extra family member. We're going to have some kids. I need more height. I need more space, etc. This is not that type of case. This is a situation where they find themselves in this predicament unbeknownst to them. They didn't make it. They bought this property with the expectation of being able to use it in a particular way and now they find themselves in that situation. So there is true extreme economic hardship. And it's not only economic; it's also emotional and it's also a hardship that will befall this family if this living arrangement is discontinued. So I submit that the variance criteria are well satisfied in this case.

I'd also just like to briefly address staff's proposed conditions for approval. I want to emphasize there is no objection to proposed condition number 1, and that is the imposition of water restriction, .25 per dwelling unit for the two dwelling units on this

house. I suspect you know full well the density requirements that have led to this regulation prohibiting kitchens within guesthouses is all dictated by water and the desire to preserve water. Staff has proposed a restriction of .25 acre-feet per dwelling unit. That gets the County where it needs to be. In other words, that provides the protection that is the motivation for the density restrictions, and we have no objection to that restriction whatsoever.

With regard to request number 2 – I’m sorry, condition #2, a request for a development permit. I want to emphasize that under the code, a development permit is only required where there’s new development. There is no new proposed construction in this case. We’re asking you to recognize the legality of a condition that’s been in place for nearly 20 years. So we would ask that – we would submit that a development permit is not required under these circumstances if a variance is granted.

Then condition number 3 is an updated liquid waste permit. I have confirmed that in the County’s files the liquid waste permit that was issued for this property was for both the guesthouse and the main house. When the property was bought in 2010 they had to have that system inspected, it meant inspections and so we would request that they not be required to incur the expense of getting an updated liquid waste permit because it is permitted for the existing condition.

Number 5 states compliance with all Fire Prevention Division requirements. You say, what’s wrong with that? Well, let me explain. Under any other circumstance, no problem. Well, in connection with this particular application the County’s Fire Department went out and they looked at the property as they do from time to time. We got a report saying that the driveway and the turnaround does not comply with County requirements. We all fell out of our seats when we got that report. I have here the County-approved plans for the guesthouse and for the main house. They all show the driveway exactly as it is today. They all show the turnaround exactly as it is today. There’s a report now that say it doesn’t comply with County requirements. Well, you can’t allow someone to build a house in accordance with plans that they submit and then 20 years later say we don’t like your driveway, even though we approved it. Even though we inspected it. So – and by the way, the main house is sprinklered. So in any other circumstance we’d say, sure. No problem. We’ll comply with fire restrictions, but that’s sort of a dead letter for us because what that means is they have to [[Because – and there’s no way to modify this driveway, because it’s a relatively – it’s a rectangular lot; it’s a steep lot and that driveway snakes up. You can see that based on the topographic photographs that are included in your packet.

So we respectfully ask to be relieved of those conditions, 2, 3 and 5, and for all the reasons stated we request that the variance be granted. I’d like you to be able to hear from the applicants themselves and their parents. Thank you. And I stand for any questions you may have.

CHAIR GONZALES: Ms. Martin.

MEMBER MARTIN: I have a question about condition 4. Did you mention condition 4?

MR. HERDMAN: Let me see what that is.

MEMBER MARTIN: The placement of additional dwelling units.

MR. HERDMAN: There's no objection to that. Further subdivision of the lot is already prohibited in the declaration and there's no way you could fit another house up there.

MEMBER MARTIN: My other question is can you give me the citation for the Paule case?

MR. HERDMAN: I certainly may. I certainly can. It is – and I'm more than happy to share my copy if you'd like. It is 138 New Mexico 82, and the uniform citation is 2005-NMSC-021.

MEMBER MARTIN: Thank you.

CHAIR GONZALES: Mr. Katz.

MEMBER KATZ: Why is it, if there was approval of a house and a guesthouse in 1992, when it came time to build the main house after the guesthouse had been built, that there was this condition about removing the kitchen? Had the rules changed? Had the approval expired?

MR. HERDMAN: No, the rules changed. In other words, there was adoption of the density requirements in between 1992 and 1998. That's my understanding.

MEMBER KATZ: Did they lose a vested right to build the main house because it wasn't built within a certain period of time?

MR. HERDMAN: My review of the records indicates that there was a renewal of the permit and as much as I would like to share your train of thought New Mexico law says you don't have vested rights until such time as you actually proceed with construction.

So the guesthouse was made, was constructed first and it was many years later that the main house was then constructed. But be that as it may, the owners still signed, as a condition for approval for the main house that form. So it is my understanding that the regulations changed and they did make that commitment, unbeknownst to my clients.

MEMBER KATZ: Thank you.

CHAIR GONZALES: Any other questions? Mr. Drobnis.

MEMBER DROBNIS: Mr. Chair, I have a question for Mr. Herdman. I presume that your representation of your clients is fairly new, that it does not extend back to the time that they purchased the property; correct?

MR. HERDMAN: It does not. It certainly does not. I was engaged specifically to assist them in connection with this particular application.

MEMBER DROBNIS: Thank you.

CHAIR GONZALES: Any other questions of Mr. Herdman. If not –

MEMBER ANAYA: I have a few questions, Mr. Chair.

CHAIR GONZALES: Mr. Anaya.

MEMBER ANAYA: In the current house now, are there any sprinkler systems or anything of fire safety in there?

MR. HERDMAN: In the main house?

MEMBER ANAYA: In both of them.

MR. HERDMAN: It's my understanding there's a sprinkler system in the main house. I've also been told that there was a recent evaluation of the area by the Fire Department that included a plan for fire safety associated with this property, the construction of a pond down below. I have not had a chance to investigate that. I know

that Mr. Buster Patty may be able to shed some light on that. I don't want to speculate on that.

MEMBER ANAYA: And the size of the guesthouse is what?

MR. HERDMAN: It is a little over 2,000 – 1,200 square feet. I'm sorry. Only 1,200.

MEMBER ANAYA: 1,200?

MR. HERDMAN: Yes.

MEMBER ANAYA: Thank you.

MR. HERDMAN: You bet. And Dr. Moseley is here and Mary Dougherty. I'm advised that Harry Dougherty had to step out for a minute but hopefully he'll be back as well.

CHAIR GONZALES: Mr. Herdman, I've got a couple of questions for you.

MR. HERDMAN: Sure. I'm sorry.

CHAIR GONZALES: Have you had any discussions with the sellers regarding this matter?

MR. HERDMAN: I have had conversations and communications with sellers' counsel.

CHAIR GONZALES: And what has their response been?

MR. HERDMAN: We have put them on notice of this issue but I can tell you there has been nothing to the effect – no assurances, no offers, no proposals, no nothing that would leave us in a position to believe that there is a cure to this proposal, a cure to this predicament. So we come before you in hopes that you'll grant a variance which will permit the resolution. Nothing short of the variance will really fix this situation that would result in anything other than the family having to move out, protracted and costly litigation, on and on and on. And so with all sorts of uncertain results. But the hardship will be suffered whether that happens or not. If one has to go down that route. Why? Because you're moving elderly people out of their existing home. All of that goes with that. I submit that that's hardship in and of itself that warrants the variance in this case.

So be that as it may, our solution lies with you and we'll hope that you'll grant the variance. I stand for further questions.

CHAIR GONZALES: I had other questions also. You mentioned about doing away with staff condition number 2. I think that that is an important condition to have in this variance request. Without obtaining a development permit County staff cannot go on the property to inspect anything. So I think it's something that maybe you should reconsider.

MR. HERDMAN: Well, here's – let me explain to you my predicament, okay? This is the report that was issued by the Fire Department, and it says that you need to bring the property into compliance if there's any permits obtained by the County. So where that gets us is the house becomes uninhabitable according to the Fire Department, even though that driveway was permitted and constructed 20 years ago. So we're back in that situation. We submit -- I understand the Fire Department needs to do their job but this was approved, and so that's the problem.

The other thing is that in my experience with a development permit, it's when you're doing something, and we're not proposing to do anything to this property. We're

asking you to just leave it as it is. So if we submitted a building permit there would be nothing to inspect. That kitchen is up there. The County knows it's up there because they've issued a notice of violation. So I don't know what that development permit would be asking for. By granting this variance, we have what we need. It just seems like surplusage and I could just see administrative issues associated with this report which we respectfully disagree with.

CHAIR GONZALES: You know, I think the mere fact you're asking for a variance, I think you have to comply with some of the County conditions. That is the whole key is when you ask for a variance that allows the County to do certain things and one of the things is they put in a restriction like water use. They ask for a development permit, they ask for a liquid waste permit. They ask for a fire inspection. That is part of the thing that goes along with asking for a variance. So that is one thing why I think staff is on the correct side on this matter.

MR. HERDMAN: And let me clarify. If it was recognized that complying with the development permit is not going to entangle us in this report which says that you have to impossibly rebuild this driveway in a way that it cannot be rebuilt, even though it was permitted twice over 20 years. I don't think we have a problem with that. So if the condition is modified to say you're going to need to get a development permit but we recognize that you don't need to comply with this report. I have no problem with that.

CHAIR GONZALES: I think Mr. Patty can answer some of your questions very clearly. He does all these inspections and I think – not yet, Mr. Patty, you'll get your turn in a minute – but I think that those conditions are rather important as far as I'm concerned. I don't know how my fellow committee members feel about those conditions but I think they're important. If anybody would want to – Ms. Martin, yes.

MEMBER MARTIN: My question is to ask counsel to weigh on this. Does counsel have a position on this? On condition number 2?

MEMBER KATZ: Will that entangle them in the fire issue?

RACHEL BROWN (Deputy County Attorney): Condition number 2, in obtaining the building permit would be processed as any other building where we've required a permit after the fact when the building is constructed. Buster Patty often has alternatives to things like driveway improvements and explores those with applicants.

MR. HERDMAN: May I respond? We're not asking – this refers to a development permit, which I understand is very different from a building permit. With the County a building permit application goes to CID, they review it for compliance, with Uniform Building Code requirements, etc. This is a development permit. If I'm grading a new lot in Santa Fe County I need to get a development permit because grading is defined as development. The code says prior to any development you need to get a development permit. This house as it exists today, there was a building permit issued for it in 1992, and so we're not asking to develop, we're asking to allow the status quo to remain. And so Ms. Brown can clarify me if I'm wrong on this but the need for a development isn't even required by the code under these circumstances because no development is proposed.

If the County wants us to go through and get a development permit we're happy to do so so long as the County – we don't get entangled in this report. By the way I did speak to Mr. Buster Patty and what he told me and he can confirm this if I'm wrong but I was surprised to learn that the County – it was not until 2001 the County began, actually the Fire Department began inspecting roads for compliance with the Uniform Building

Code. And he confirmed to me that there are lots of properties out there that may or may not comply as a consequence. So I don't think that it is fair for these people to get caught up in that issue simply because we're asking for this condition to remain. The bottom line is there's a house up there, there's a guesthouse up there, there are going to be people going up that driveway no matter what.

VICKI LUCERO (Building & Development Supervisor): Mr. Chair.

MEMBER DROBNIS: Mr. Chair.

CHAIR GONZALES: Mr. Drobnis.

MEMBER DROBNIS: I have a couple of comments in response to the chair's question. I would be concerned if I were your clients at living in a property where the Fire Department has expressed concerns about being able to get their equipment into the property. If there is a fire, either a wildfire or a structural fire they're going to have to call the Fire Department, not an attorney. So if Captain Patty has suggestions for how that access to the property can be improved so that the Fire Department can render effective assistance I think it would be in the best interests of everyone that those suggestions be heard. It doesn't mean that the entire access system to the property needs to be bulldozed and replaced but there may be mitigations that can significantly improve the ability of the Fire Department to respond to an emergency.

Let me offer a second thought and that is on the issue of the building permit. The next owners of this property, whoever and whenever that event may happen would be concerned if one of the units on the property, if it appeared that it did not have a building permit and they could find themselves in a difficult situation as well.

I think it is in the interests of all concerned, both the County and your clients to make sure that all the paperwork is correctly in place, that the County has a record of what the structures look like and what they're supposed to be. Otherwise, in some years someone could make another claim and if the County has no records that show the property as it currently exists or it may have received a variance for there could be some more problems. So I think this would represent an opportunity to tidy up all the paperwork and secure your clients' future.

MR. HERDMAN: Let me just respond to that. My clients were not thrilled to receive that report. They had no knowledge. There was nothing disclosed to them regarding compliance or noncompliance. I think they operated on a presumption that they were living in a house that was properly permitted by Santa Fe County. And so they were shocked to have received that report. They don't take it lightly by any means. My point simply is that although that may be important it's in some respect – it doesn't pertain directly to the request to allow the kitchen so that these folks can continue with their living arrangement. If we weren't before you today for a variance the people would be living up there and the driveway would be as it is. We're welcome to entertain any suggestions by the County's Fire Department but to my knowledge I'm not aware that it's susceptible to modifications that could render it satisfactory to Mr. Patty. I may be wrong.

CHAIR GONZALES: Yes, Vicki.

MS. LUCERO: Mr. Chair, can I get a clarification. Did Mr. Herdman make mention of the remodel that had occurred in the guesthouse?

MR. HERDMAN: It was not a remodel. There were minor changes made to the property. For example, appliances were substituted so they could better maneuver around the kitchen: nothing requiring a permit.

MS. LUCERO: Okay. Mr. Chair, that being the case, I don't think County staff would have an issue with removing condition number 2 because of the application that we have on file for the guesthouse, for the original guesthouse, it appears that it reflects what is actually out there today. So I don't think that it needs to be amended in any way.

CHAIR GONZALES: So condition 2 can be waived?

MS. LUCERO: Correct.

CHAIR GONZALES: Okay. Thank you. What about condition 3? Do you have an opinion on that one?

MS. LUCERO: Mr. Chair, condition number 3, we've reviewed. We have a copy of the NMED permit and it appears that it was actually issued for the two units. So it appears that that permit is actually up to date at this point. So it does reflect what is currently out there so we wouldn't have an issue with deleting that condition as well.

CHAIR GONZALES: Okay. Thank you.

MEMBER ANAYA: Mr. Chair.

CHAIR GONZALES: Yes, Mr. Anaya.

MEMBER ANAYA: Along those same lines, on the septic system, when your clients purchased this property, did you guys get an inspection done on the septic system?

MR. HERDMAN: Yes, they did.

MEMBER ANAYA: And it all passed?

MR. HERDMAN: It passed, yes.

MEMBER ANAYA: Another question that I have, Mr. Chair, if it's all right with you. I'm one of the individuals that really believe in safety because of my past and what happened and stuff like, so forth. And I understand that your clients are doctors and they work in the ER. And they probably know the Fire Department very well. I believe that some of the things they're asking for is just something that would be a safety issue for your clients' parents. Am I thinking it wrong?

MR. HERDMAN: Maybe I've misunderstood. I've reviewed the report, but my understanding and I can stand corrected but that short of basically rebuilding the driveway in a way that I can't imagine is what's being proposed. But if there's something else we're happy to entertain suggestions.

MEMBER ANAYA: Is this a dollar issue or is this an issue that it was already there?

MR. HERDMAN: Well, if you – have you had a chance to see the topography here that shows the lot –

MEMBER ANAYA: I have seen it, sir.

MR. HERDMAN: So what we have is we have this. And so these are essentially switchbacks that go up the steep slope. I don't think there's an alternative to building that driveway up there. I'm going to guess that they probably built it in the way that was most suitable and the least steep at the time. I don't know for sure. But we're not talking about relatively flat lot where the driveway's not wide enough. It's challenging terrain and I can't even envision that. So, again, this was permitted by the County.

MEMBER ANAYA: Okay. I guess it's time for the Fire Department to speak. I'll have a couple of questions for them too. Thank you.

MR. HERDMAN: And I'd like you to hear from the applicants themselves if that's okay. I know I've been up here for a while but I appreciate your indulgence. Thank you.

CHAIR GONZALES: You may approach please and get sworn in.

[Duly sworn, Kimberly Moseley testified as follows]

KIMBERLY MOSELEY: I'm Kimberly Moseley. I live at 24 South Cloudstone Drive, Santa Fe. As you've heard we moved here with the intention of having a place where my in-laws, Bill's parents could live with us and be either in the same home or in a very nearby home so that we could help care for them. In looking for homes everybody was aware that this was the goal. In fact, in looking at this home Harry and Mary flew out from California to look at the home and actually met the sellers and everybody knew the plan.

There was no mention that the kitchen was supposed to have been removed ever. In fact they had somebody living in the guest home when we looked at it. We looked at a lot of homes and this suited our needs the best. It was a single level guest home whereas the main home is not. It really is not suitable for them to live. It's a lot of stairs, it has a gas range. They're both on home oxygen in the evenings and sometimes during the day so they really can't cook with a gas range which is why we changed theirs to an electric conduction range for safety reasons.

We took out – we changed the bathroom so that they could have a walk-in shower rather than having to step into a tub and risk falling. So we made a lot of changes and I don't think we can make the driveway to make it compliant because of topography. But I'm certainly open to suggestions. And we just – I really would like to ask that you grant the variance.

CHAIR GONZALES: Thank you.

[Duly sworn, Bill Dougherty testified as follows]

BILL DOUGHERTY: Bill Dougherty. I also live at 24 South Cloudstone. I was asked to come here to upgrade the trauma program. I am very interested in safety and I did burn surgery for the better part of 25 years. Ran burn centers, worked in a pediatric burn center and started by own pediatric burn center, and I have a tremendous amount of respect for the safety and the issues that come from our Fire Department. I worked very closely with them in many of our cities in the United States.

I don't want to repeat everything that Kim said but having my parents close, being there for them, being a medical doctor I direct their care along with Kim and it's just a very important relationship and it was something that we planned in moving here, to set them up and it's just extremely important to us.

On a personal note, the main house has sprinklers in it and only one percent of the dwellings in the United States have sprinklers, so I was very happy that we had them, and I guess it was a requirement to change between the two building times. So I do have concerns that I shared but I think at the time – this is the way I understand it – when they permitted our driveway they weren't bringing up the same rigs and other things and that may have changed over time. But cement trucks come up there. Our gas truck, the UPS truck. So certainly an ambulance or an evacuation would not be hampered by that I don't believe. But the large rigs and water and other things that would be required may be too

large. I also believe that the topography makes it very difficult. It looks like they did as much as they could to squish the driveway into the property that we had and it would require a huge change if not a tunnel or something. I don't know. I have no idea. An elevator. I had no idea how we could change it. Again, both Kim and I are open to doing whatever we can to enhance that because we are interested in safety.

CHAIR GONZALES: Thank you very much. Any questions of the applicant?

DR. DOUGHERTY: Would you like to hear from my parents or have we taken up enough of your time?

MEMBER ANAYA: Mr. Chair.

CHAIR GONZALES: Yes, Mr. Anaya.

MEMBER ANAYA: I'd just like to speak to the applicants on their safety issues and I totally agree with you 100 percent. I know where you're coming from. Some of the things that I'm reading in the fire safety, and I guess the Fire Department is going to be able to speak on behalf of this. It seems like we definitely don't want you to throw your parents out. We all have parents and we all love ours just as much. And I understand – I'm not going to speak on behalf of the rest of the – my colleagues up here, the commissioners, that – I'm sorry. I lost my train of thought there. Okay, Mr. Chair. I pass.

CHAIR GONZALES: Thank you, Mr. Anaya. Mr. Drobnis.

MEMBER DROBNIS: I had a question for the attorney, for the attorney for the County if that is appropriate at this time. That is you have heard Mr. Herdman's discussion regarding the nature of a hardship as regards a condition for a variance. Do you have an opinion on that?

DEPUTY ATTORNEY BROWN: The board is tasked with determine whether the variance request fits within the variance requirements, and whether this is a non-self-inflicted situation that requires a variance for topography or other non-self-inflicted reasons, and whether proper due diligence was done during this buying process or not is for you to evaluate.

MEMBER DROBNIS: Thank you.

CHAIR GONZALES: Mr. Katz, do you have a question?

MEMBER KATZ: No.

CHAIR GONZALES: Mr. Patty, would you explain your report to us please?

BUSTER PATTY (Fire Department): Mr. Chair, committee members, I think I can clarify a lot of this. The code was not in existence – the 1998 code, the 1997 code that was adopted in 98 was not in existence when this driveway was built in 1993. There was no code. So that's why that driveway got built like it was.

Then the house that was built in 1999, we were not doing inspections on residential houses. Even though the code was adopted in 1998 we didn't do residential inspections so we would have never seen this.

In the conditions, condition number 5, we need to – as the Fire Department, we need to change the wording to that a little bit. And what we're talking about is applying any of the applicable requirements of the Fire Code, 1997 Uniform Fire Code that can be applied, is what we would be asking for. We know that we looked at the driveway. I'm not an engineer so I'm not going to say that it can't but I don't see how physically the driveway could be changed from what it is right now. Maybe a little work could be done

in widening. But the driveway, what's there right now is going to be existing. But what we can do is the residential house, the large home that was built, the second home, it does have a sprinkler system in it but we don't know anything about it. We don't know if there's been any inspections done on it, if it's been retested. This is the kind of thing that we would like to see, that we would like to be able to apply any codes that could pertain.

There's that part of the code that is Article IX in Section 902 that when, due to topography, which this is very obviously a problem with this driveway, that the Fire Chief can require additional fire protection when it can be applied. The one is fire sprinkling. We thought about the other house that is not sprinklered, the small house. But the code actually reads that anything over 1,500 square feet. Well we find out that that's only about 1,200 square feet, so there again, with the 902, if we can't gain access, we could require that but I don't see that that's going to be that detrimental since we have the large structure that is sprinklered right now, but we would like to have, require some kind of testing by an outside sprinkler source, sprinkler company. This is the kind of thing we're looking at.

It's not just fire but we also have to get up there with an ambulance and I'm not aware of a storage tank that was talked about at the bottom. I'm not really sure. That may have come from the Hondo Fire District. They may have talked to them about it but I'm not aware of that. But a storage tank for water isn't going to do a whole lot for us there because we can haul the water to meet NFPA level 42 requirements to that piece of property, because it doesn't do any good if we have water at the bottom but we can't get up that road anyway.

The way the road is right now – we're not going to say that we're not going to get there. They dial 911 and we're going to do everything we can. Our guys will even walk up the hill if they have to. But to meeting the code, the way our letter was written, it doesn't meet the code so this is where the denial comes in and then if you grant the variance, we would like to have some input on maybe the traffic at the top of the hill. We were up there the other day there was one car parked in the driveway. If there was two or more cars parked inside that driveway then we would be totally unable to turn around. So little restrictions that we can work with the applicant to make things a little better than what it is. Because there's no way to even turn the access around at the top to change it. There's just no room.

CHAIR GONZALES: Is there room for a turnaround that you require?

CAPTAIN PATTY: No, Mr. Chair, there is no room up there to change what they've got right now. We would have to do – we could turn a piece of equipment around up there with I'd say a four or five point turn, which is not a legal turn, but we can do it. But it doesn't meet the code. So that's why the denial of code comes in, and then you approve it and we do what we can to make it the best we can by implementing the 902.

CHAIR GONZALES: Any questions of Mr. Patty?

MEMBER ANAYA: Mr. Chair.

CHAIR GONZALES: Mr. Anaya.

MEMBER ANAYA: Mr. Patty, I have one question I guess. You're talking about equipment going up to this road, and I'm assuming that you're talking about the huge tankers; is this correct?

CAPTAIN PATTY: This is correct. In a case like this we probably wouldn't take tankers up there because once we get up there we're not going to be able to turn them around. A tanker doesn't do any good at the top of this hill if there's not an engine up there already to pump that water. There's not room for two pieces of equipment. We'd probably be laying hose up that long driveway and pumping it up the hill.

MEMBER ANAYA: Would you be able to take smaller tankers up there?

CAPTAIN PATTY: This is where we'd have to do a fire pre-plan as part of the changing fire code, requiring a fire pre-plan with the Fire Department up there to come up with a plan of how we are going to do this.

MEMBER ANAYA: Thank you, sir.

MEMBER DROBNIS: Mr. Chair, Captain Patty, how would you suggest wording a condition that would take into account the application of those parts of the code which can be done and apply a variance to the others? What sort of wording would you suggest?

CAPTAIN PATTY: Mr. Chair, committee members, on recommendation number 5 I would leave the wording to the same, the applicant shall comply with all Fire Department division requirements as per 1997 Uniform Fire Code and Life Safety Codes that can be applied.

MEMBER DROBNIS: I believe I heard you talk about a fire pre-plan. Would that be a place to insert?

CAPTAIN PATTY: That would be part – that's in the code. So that's already in there so we could say, okay, we're going to do a fire pre-plan, or a vegetation management plan, which there's not a lot up there. So, for example, testing the sprinkler system schedule, an annual testing on the sprinkler system that exists. Condition of looking at the grading on the road that it's maintained on an annual basis.

MEMBER DROBNIS: Thank you.

CHAIR GONZALES: Any other questions of Captain Patty? If not, thank you, Captain Patty. Dr. Moseley if you wanted your parents to speak that would fine, if not they don't have to. You made a very compelling argument here. It's a very hardship case. We're very moved by this situation that you're in and it's hard for this committee to deal with a lot of those things especially when maybe there was a little bit of – great misrepresentation of this situation. That is not easy to deal with. Anything else, Mr. Herdman?

MR. HERDMAN: Mr. Chair, I just wanted to say that the applicants are encouraged by Mr. Patty's comments and suggestions and they support the condition he recommended and they look forward to working with him. Safety is of paramount importance to them.

CHAIR GONZALES: Okay, thank you. This is a public hearing. Is there anyone in the audience wishing to speak for or against this case please step forward and get sworn in.

[Duly sworn, J.J. Shapiro testified as follows]

J.J. SHAPIRO: J.J. Shapiro, 90 Leaping Powder. Maybe you recall, I was in front of this board a few weeks ago with the same variance. I'm not telling you how to vote or asking you how to vote. I would just like an equal playing field whether I'm wearing a Dallas Cowboy shirt or Cincinnati Bengals, you can't throw a pass over the

line of scrimmage; it's illegal. The same owner came up to me when I was drawing my plans and told me he had a variance for his kitchen in his guesthouse. That was represented to me. The homeowners' president told me that person had a variance for his guesthouse. Based on that I put in my kitchen.

I just want an equal playing field. When Mr. Patty came out for me for a non-conforming on my plans, I revised my plans. I widened my driveway. I cut down mature pinon trees to get an approval from Mr. Patty. These are hard times for all of us. What was true in 1984 is not the economic and financial position we have today. Many children and parents are moving in with their appropriate siblings or parents.

I am for this variance, don't get me wrong. The water issue is an issue. In regards to my plans I do have a sprinkler system. I was never asked. I put it in on my own; it was not required. I am using less than half of the allowable water based on my last three year's use.

So I'm asking this board whatever you decide it should be for me and for them.

And I have one other note. I think that pretty well sums up my feelings and it is unfortunate that I did not have Mr. Herdman in my corner. I asked him. But he had to withdraw because my neighbors – because his firm had represented one of the people on the board so he had to withdraw. So maybe my presentation would have been just as eloquent before as Mr. Herdman's is now.

If it's possible, I would like a uniform approval for both my kitchen as well as their kitchen in the same neighborhood for the same reasons. Thank you.

CHAIR GONZALES: Thank you. Mr. Anaya, do you have a question?

MEMBER ANAYA: No, not a question. I guess I'll wait until after the comments are closed.

CHAIR GONZALES: Any other members of the audience wishing to speak for or against this case. Seeing none, the public hearing is closed.

Do we have any discussion of the committee? Mr. Katz.

MEMBER KATZ: I salute very much Dr. Dougherty's parents. They obviously did a very good job in raising their son that he is taking such good care of them. And I salute the good doctor and his wife for their concern. I can only hope that my children will do as well.

I do have a slippery slope problem and it does seem to me that the remedy is really against the seller not against changing the rules. I am familiar with the case that Mr. Herdman cites and I think that the reasoning on the cell tower is that in order to provide services in that kind of a hilly area part of Santa Fe the laws of physics required that the cell tower be at a certain height. So it was not self-inflicted. The laws of physics really aren't self-infliction. It was the technology that required that and the topography that required that height.

Were we to deny the variance my understanding is the consequence would be probably that you would go back to looking at one of the other houses you had looked at and maybe didn't like as much but there certainly are plenty of houses in the Santa Fe area that have a house and a guest house and a single flat guest house and would suit – it would be inconvenient. It would be infuriating. I can certainly understand that and I think we have to weigh that but I don't see that the Code really allows us to make an exception because the seller misrepresented the facts to you. And, where the solution is really unfortunately to move. I mean one could question the wisdom of buying a house

up that steep, steep hill with elderly parents that may well need ambulance and it does snow here and such. But that was the choice you made but these are other issues. Thank you.

CHAIR GONZALES: Thank you. Mr. Anaya.

MEMBER ANAYA: Mr. Chair, I'd like to make a recommendation, please, if I may. And I'd like to make a recommendation stating that with staff's conditions as amended and the Fire Department's pre-inspection of a fire plan and that's working out with the Fire Department and the owners as communicated earlier in this discussion.

CHAIR GONZALES: Do you want to put that in the form of a motion?

MEMBER ANAYA: I thought I just did.

CHAIR GONZALES: You said recommendation.

MEMBER ANAYA: Oh, I'm sorry. I'd like to make a motion. I apologize.

CHAIR GONZALES: Go ahead, Mr. Anaya.

MEMBER ANAYA: I'd like to make a motion to approve with staff's conditions as amended and the Fire Department's pre-inspection and the fire plan worked out through the Fire Department and the owners.

MEMBER VALDEZ: I second.

CHAIR GONZALES: Thank you. We have a motion and a second. Do we have discussion? You know what I'd like to do is to say that it was a very compelling argument made. This committee is very sympathetic to the situation. I along with Mr. Katz think that the person really responsible for this was the seller. They're the ones that put a monkey wrench into everybody's lives. You know, it comes before the committee and you're trying to ask the committee to undo something that was the fault of the sellers. The thing is this committee is just a recommending body and this case will go to the BCC and that will be scheduled with staff. Seeing that there are no other comments, we have a motion and second.

The motion tied by 3-3 vote as follows: Voting for were Members Anaya, Valdez and Chair Gonzales; voting against were Members Katz, Martin and Drobnis.

CHAIR GONZALES: Ms. Vicki, in this situation we have a tie; what is your recommendation?

MS. LUCERO: Mr. Chair, we will be bringing this case back to the next meeting when all of the members are present and it will be for a vote only.

CHAIR GONZALES: Mr. Herdman, the determination of this case was a three-three tie and this case will come to the next meeting when we have seven members present. So thank you very much.

D. CDRC Case #MIS 12-5310 Turquoise Trail Subdivision South Phase. CS-TT South, LLC, request Preliminary and Final Plat approval to create 58 additional lots on Block 1 and Block 2 of the Turquoise Trail Subdivisions South Phase, to replace the 58 previously approved condominium units. The property is located off of Carson Valley Way, which is off of Highway 14, within Sections 24 and 25, Township 16 North, Range 8 East (Commission District 3)

Vicente Archuleta, Development Review Team Leader, provided a summary of the case as follows:

“On September 13, 2005, the Board of County Commissioners approved the Turquoise Trail Subdivision’s South Phase. The South Phase consists of 222 residential units. Block 1 was approved for three condominium units and Block 2 of the subdivision was approved for 55 condominium units for a total of 58 condominium units. RCS-TT South, LLC, now requests Preliminary and Final Plat Approval to convert the 58 condominium units into 58 single-family residential lots on Block 1 and Block 2. There will be no change in density from what was originally approved.

“Currently, Block 2 consists of two condominium units which are owned by two separate parties. There are currently two triplex units, six total units, under construction. The owners’ desire is to dissolve the condominium portion of the development and transition into townhomes and triplex units, each of which will be on individual lots. Block 1 and Block 2 will be divided into 58 lots rather than retaining one large condominium parcel and also adjust the lot line of Tract O. Tract O will be re-platted to provide the required setback for the duplex units and to maintain the same area for Tract O.

“The entire Subdivision including the proposed lots is served by the City of Santa Fe Water System and City of Santa Fe Sewer System. All the required infrastructure is completed, and has also been inspected and approved.”

Mr. Archuleta said that staff reviewed the application and recommends Preliminary and Final Plat approval to create 58 lots on Block 1 and Block 2 of the Turquoise Trail Subdivision South Phase, which will replace the 58 condominium units that were previously approved.

There were no questions of staff and Karl Sommer agent/counsel for the new owners/applicants appeared before the Committee. Mr. Sommer indicated that the new owners are builders and will be building out these units as well as the 300+ units approved for the North Phase of the development. The fact these units will be built is a good economic sign for the community, he stated. They had no objections to staff recommendation or conditions. He added that the current market does not support the sale of condominiums and single family homes are selling.

Member Anaya asked about affordable units and the price range of the units. Apologizing that he did not have the development's affordable housing agreement with him, Mr. Sommer assured the Committee that the development would meet the requirements as recorded on the plat and established within the agreement. The Community College District requires 15 percent affordable housing.

Mr. Archuleta said 33 units are designated as affordable.

Mr. Sommer confirmed for Member Drobnis that the 30 percent open space requirement will be met. The open space is deeded to the homeowner association. The active open space has been developed with a park.

There was no one in the public wishing to speak on this case.

Member Katz moved to approve Case #MIS 12-5310, Turquoise Trail Subdivision South Phase, for preliminary and final plat as recommended by staff. His motion was seconded by Member Martin and passed by unanimous [6-0] voice vote.

VIII. PETITIONS FROM THE FLOOR

None were offered.

IX. COMMUNICATIONS FROM THE COMMITTEE

None were offered.

X. COMMUNICATIONS FROM THE ATTORNEY

None were presented.


XI. COMMUNICATIONS FROM STAFF

The next CDRC meeting: November 15, 2012 at 4 p.m.

XII. ADJOURNMENT

Having completed the agenda and with no further business to come before this Committee, Chair Gonzales declared this meeting adjourned at approximately 6:10 p.m.

Approved by:



J.J. Gonzales, Chair
CDRC

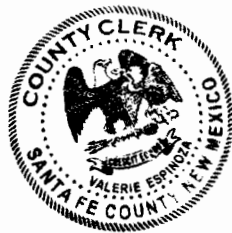
ATTEST TO:

COUNTY CLERK

Before me, this ____ day of _____, 2012.

My Commission Expires: _____
Notary Public

Submitted by:
Karen Farrell
Karen Farrell, Wordswork



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss
CDRC MINUTES
PAGES: 41

I Hereby Certify That This Instrument Was Filed for
Record On The 19TH Day Of November, 2012 at 09:23:33 AM
And Was Duly Recorded as Instrument # 1687946
Of The Records Of Santa Fe County

Deputy *Marcella Palacios* Witness My Hand And Seal Of Office
Valerie Espinoza
County Clerk, Santa Fe, NM

October 15, 2012

County Development Review Committee / Commissioners

CDRC CASE 3 V 12-5300

We are writing in reference to John & Virginia Kraul , they are asking for variance to allow two dwellings units on their 0.90 acre . The property is located at 07 Camino La Llorona.

Track 4 a Family Tranfer Land Division recorded October 2, 1998 from Edward W. Kraul & Patricia Ann Gilbo Kraul (Book 398, Page 22).

At this time John Kraul & Miquela Kraul Martinez got their inheritance (property). (Exhibit A)

Although we sympathize with Miquela's situation. We feel that John & Virginia should not be allowed to have two dwellings on their property for the following reasons.

We feel their property is to small 0.90 acre to accommodate all these structure already on the property , (their residences , studio , garage, the ½ single wide trailer, their accessory structure type dwelling) this does not include the easement or their hammer head turn around which leave them with even less usable property. (Exhibit B)

Miquela has been living in that dwelling since February 2011 after she gave her inheritance (property) to John's and Virginia's daughter Amanda Kraul-Rodriguez. Prior to Miquela living in it they had it rented , and Amanda and her then boyfriend Ruben also lived in it at one time. (Exhibit C)

In John & Virginia's recorded survey plat they have 05 Camino La Llorona as a studio . In the past they have had this rented. And now they have it rented to Cody Potter as a storage unit. Cody has a semi type truck in the yard three to four times a year . This makes it difficult and takes a lot of room in the driveway. (Exhibit D)

As for their septic , John and Virginia's septic tank is shown on their legal plat recorded October 2, 1998 (Book 398, Page 220). Also recorded November 16,1994 S.F. 940986 CID permit # 02439081 shows the tank is

CLERK RECORDED 11/19/2012

180 feet away from their well, in reality the tank and leach line is only 50 feet away, a very different location then on the (site plan) bird eye view of property there is no way that site plan is correct (the length of the property is only 156 feet long) . Must be noted by CDRV their well is within 50 feet of two septic tanks. (Exhibit E , 6 pages)

Because the property is so small for all this existing structures it is very congested and difficult to drive through. Cars are pulling out of all directions, it is congested with vehicles, with their own vehicles (5 cars, and their fifth wheel trailer) and when they have visitors. John also works on other peoples cars out of his garage/structure, making it very difficult and dangerous to drive though especially in the winter time.

Perhaps it would be different if John and Virginia's lot was in the back and not the first lot that is serving seven other lots that must drive through all this congestion . (Exhibit F)

We feel bad for the situation Miquela is in . John and Virginia's house is big enough to have her live with them.

Perhaps Amanda could take care of Miquela in her house , Miquela did give Amanda her inheritance.

Miquela could moved into John and Virginia's already existing studio.

Miquela might qualify for a low income home.

Miquela is still young she might meet someone and possibly get married.

If Miquela would have used her property as density to put a second dwelling on John's property it would not have come to this unfortunate situation.

We well be submitting the original petition and all exhibits, pictures at the October 18th 2012 meeting.

Thank You

Edward Kraul & Joyce Kraul

Edward Kraul
Joyce Kraul

PETITION

This petition is signed by residence of Canada de los Alamos and neighboring residence. Against posted permit #V12-5 for John and Virginia Kraul variance to allow a two dwelling on 0.90 acre, after excluding their easement they have a .688 acre lot which does not exclude the emergency turn around easement. Which is 20 feet wide by 76 feet long. Leaving them with a less than half an acre.

This property has 2 dwellings, 1 studio, 1 structure, 1 two car garage (shop).

This property is the first lot of 7 lots. It has the main easement through it, it is very congested and difficult driving through it especially during the winter months.

Name	Address	Date
<u>EDWARD KRAUL</u>	<u>60 CAMINO LA LLORONA</u>	<u>10-2-12</u>
<u>Zachary Love</u>	<u>6A Camino La Llorona</u>	<u>10/2/12</u>
<u>Amos Holdsworth</u>	<u>60 Canada Village Rd</u>	<u>10/2/12</u>
<u>Richard Heppert</u>	<u>59 Canada Village Rd</u>	
<u>Ellis Poirier</u>	<u>39 Canada " "</u>	

SEC. CLERK RECORDED 11/15/2012

Petition Against permit for John and Virginia Kraul
#V 12-5300

Name	Address	Date
Laura Dean	49 Cañada Village Rd	10-4-12
Rose Nunez	39 Cañada Village Rd. SF	10-4-12
Yerisita Rivera	83 Two Trails Rd. SF	10/4/12
Robert Abeyta	7638 Old SF Trl.	10-4-12
Barbara Abeyta-Ratliff	7638 Old SF Trl.	10-4-12
Carole Hennessey	7675 Old Santa Fe Trail	10/4/12
Scott Kuiper	35 Cañada de los Alamos	10.4.2012
Dora Birnbaum	7727 Old SF Trail	10/4/12
Ronald Boyd	7741 Old SF Trail	10/4/12 & 10/5/12
Lucy L. Bragman	7741 BOLD SF Trl.	10/5/12
	JAN 2 BULLMAN	
Chris Chavez	09 Chavez Trail	10/5/12
George M. Bachicha	50 Cañada Village Rd. SF, N.M.	10/5/12

Petition Against permit for John and Virginia Kraul

V12-5300

Name Address Date

Ah. Eylan 04 SALAS Ln. S.F. 10-5-12

Khira Koyz 20 Canada Village Rd SF 10/6/12

Danielle Charlier 24 Canada Village Rd 10/6/12

Ruben Rana 600A Canada Village Rd 10/8/12

L. Blake Emerson
L. BLAKE EMERSON 46 QUARTZ TRAIL 10/8/12

Ben Joyce 741 W. MANHATTAN AVE. SF. 10/8/12

Dorothy Dean 26 Quartz Tr 10/8/12

26A QUARTZ TRAIL 10/8/12

Kang Benard 4 B Salas Ln. S.F. 10/8/12

Chita M. Lulis 40 Canada Village Rd 10/8/12

Katherine Mor 61 Canada Village Rd 10/8/12

Sigfried Karl Canada Village

Paul Jones Wild Turkey Way 10/8/12

Petition Against permit for John and Virginia Kraul

#V12-5300

Name

Address

Date

Road Bann 3 La Posta Way 10/9/2012

Tim Borden 63 Concord Rd 10/10/12

SFC CLERK RECORDED 11/15/2012

PETITION



REC CLERK RECORDED 11/19/2012

This petition is signed by residence of Canada de los Alamos and neighboring residence. Against posted permit #V12-580 for John and Virginia Kraul variance to allow a two dwelling on 0.90 acre, after excluding their easement they have a .688 acre lot which does not exclude the emergency turn around easement. Which is 20 feet wide by 76 feet long. Leaving them with a less than half an acre. This property has 2 dwellings, 1 studio, 1 structure, 1 two car garage (shop). This property is the first lot of 7 lots. It has the main easement through it, it is very congested and difficult driving through it especially during the winter months.

Name	Address	Date
Edward Kraul	6C Camino La Llorona	10-2-12
Zachary Love	6A Camino La Llorona	10/2/12
Amos Holdsworth	60 Canada Village Rd	10/2/12
Richard Heppert	59 Canada Village Rd	
Eddie Poirier	39 Canada " "	

Petition Against permit for John and Virginia Kraul
#V 12-5300

Name	Address	Date
Laura Dean	49 Cañada Village Rd	10-4-12
Rose Monje	39 Cañada Village Rd. SF	10-4-12
Jerisita Quisera	83 Two Trails Rd. SF	10/4/12
Robert Abeyta	7638 Old SF Trl.	10-4-12
Barbara Abeyta-Pattiff	7638 Old SF Trl.	10-4-12
Chapra Hernandez	7635 Old Santa Fe Trail	10/4/12
Scott Kuipers	35 Cañada de los Alamos	10.4.2012
David Birnbaum	7727 Old SF Trail	10/4/12
Ronald G. G. G.	7741 Old SF Trail	10/4/12
Lucy L. Bradman	7741 B.O. O.S.F. Trl.	10/5/12
Chris Chavez	09 Chavez Trail	10/5/12
George M. Bachicha	50 Cañada Village Rd. SF, N.M.	10/5/12

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Petition Against permit for John and Virginia Kraul

V12-5300

Name	Address	Date
Ah. Cylun	04 SALAS Ln. S.F.	10-5-12
Khira Koyz	20 Canada Village Rd SF	10/6/12
Danielle Charlier	24 Canada Village Rd	10/6/12
Ruben Rian	60A Canada Village Rd	10/8/12
L. Blake Emerson	46 QUARTZ TRAIL	10/8/12
Ben Joyce	741 W. MANHATTAN AVE. SF.	10/8/12
Dorothy Dean	26 Quartz Tr	10/8/12
Phillip [unclear]	26A QUARTZ TRL.	10/8/12
Kang Bernard	4 B Salas Ln. S.F.	10/8/12
Chita M. Lulis	40 Canada Village Rd	10/8/12
Katherine Mon	61 Canada Village Rd	10/8/12
Sigfried Karl	Canada Village	
Paul Jones	Wild Turkey Way	10/10/12

SEC CLERK RECORDED 11/19/2012 2102/01/11 08:00:00 AM

Petition Against permit for John and Virginia Kraul
#V12-5300

Name Address Date

Road Runner 3 La Posta Way 10/9/2012

Tim Bender 63 Canada Rd 10/10/12

Sheryl Bann 55 Canada 10/10/12

Walter G. G. MILLION^{ph.D} 135 Canada Village Rd 10/17/12

Todd Hochman 135 Canada Village Rd 10/17/12

Jim Smith 193 CANADA VILLAGE RD 10/17/12

Bob Sures 136 Canada Village Rd 10/17/12

R. G. Gille 51 CANADA VILLAGE RD 10-17-12

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210612

Daniel "Danny Mayfield
 Commissioner, District 1

Virginia Vigil
 Commissioner, District 2

Robert A. Anaya
 Commissioner, District 3



Kathy Holian
 Commissioner, District 4

Liz Stefanics
 Commissioner, District 5

Katherine Miller
 County Manager

Santa Fe County Fire Department

Fire Prevention Division

Official Submittal Review

Date	Oct. 2, 2012		
Project Name	Moseley, Kimberly		
Project Location	24 S. Cloudstone Dr. T16; R10; S5		
Description	Variance; second dwelling density	Case Manager	Miguel Romero
Applicant Name	Kimberly A. Moseley	County Case #	V 12-5280
Applicant Address	24 S Cloudstone Drive Santa Fe, NM 87505	Fire District	Hondo
Applicant Phone	505-982-3610; Att. Frank Herdman		
Review Type	Commercial <input type="checkbox"/>	Residential <input checked="" type="checkbox"/>	Sprinklers <input type="checkbox"/>
	Master Plan <input type="checkbox"/>	Preliminary <input type="checkbox"/>	Final <input type="checkbox"/>
	Wildland <input type="checkbox"/>	Variance <input checked="" type="checkbox"/>	Hydrant Acceptance <input type="checkbox"/>
		Inspection <input checked="" type="checkbox"/>	Lot Split <input type="checkbox"/>
Project Status	Approved <input type="checkbox"/>	Approved with Conditions <input type="checkbox"/>	<u>Denial</u> <input checked="" type="checkbox"/>

The Fire Prevention Division/Code Enforcement Bureau of the Santa Fe County Fire Department has reviewed the above submittal and requires compliance with applicable Santa Fe County fire and life safety codes, ordinances and resolutions as indicated (*Note underlined items*) :

Summary of Review:

Per 1997 Uniform Fire Code, as submitted this plan is Denied because of the access slope in excess of 11%, turning radius on curves, no turnaround area at the residence for emergency vehicle operations.

- This driveway cannot meet the County standards of a minimum 14' wide driving surface and maximum 11% slope for fire apparatus access road. Driveway, turnouts and turnarounds need to be County approved all-weather driving surface of minimum 6" compacted base course or equivalent. (page #2)
- Due to the slope of the driveway and insufficient room at the top of the hill or in the driveway there is no place for creation of an area such as a cul-de-sac, K-type or hammerhead type turnaround for emergency vehicle purposes conforming to the access and turnaround requirements and dimensions of the Santa Fe County Fire Department. (page #2)

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 REC'D
 FIRE PREVENTION DIVISION

- As submitted, this driveway exceeds 11% maximum slope, has slopes as much as 19% and the curves in the driveway cannot conform to the radius requirements of a minimum 28' inside radius on 90 degree curves. (page #3)
- Prior to acceptance and upon completion of any permitted work, the Contractor/Owner shall call for and submit to a final inspection by this office for confirmation of compliance with the above requirements and applicable Codes. (page #3)

Fire Department Access

Shall comply with Article 9 - Fire Department Access and Water Supply of the 1997 Uniform Fire Code inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal

- **Fire Access Lanes**

Section 901.4.2 Fire Apparatus Access Roads. (1997 UFC) When required by the Chief, approved signs or other approved notices shall be provided and maintained for fire apparatus access roads to identify such roads and prohibit the obstruction thereof or both.

- **Roadways/Driveways**

Shall comply with Article 9, Section 902 - Fire Department Access of the 1997 Uniform Fire Code inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal.

1997 Uniform Fire Code Article 9, Section 902.2.2.2. Surface; Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with a surface so as to provide all-weather driving capabilities.

This driveway cannot meet the County standards of a minimum 14' wide driving surface and maximum 11% slope for fire apparatus access road. Driveway, turnouts and turnarounds need to be County approved all-weather driving surface of minimum 6" compacted base course or equivalent.

Due to the slope of the driveway and insufficient room at the top of the hill or in the driveway there is no place for creation of an area such as a cul-de-sac, K-type or hammerhead type turnaround for emergency vehicle purposes conforming to the access and turnaround requirements and dimensions of the Santa Fe County Fire Department.

- **Street Signs/Rural Address**

Section 901.4.4 Premises Identification (1997 UFC) Approved numbers or addresses shall be provided for all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property.

REC'D BY RECORDS 11/19/2012

Section 901.4.5 Street or Road Signs. (1997 UFC) *When required by the Chief, streets and roads shall be identified with approved signs.*

Properly assigned legible rural addresses are posted and maintained.

- **Slope/Road Grade**

Section 902.2.2.6 Grade (1997 UFC) *The gradient for a fire apparatus access road shall not exceed the maximum approved.*

As submitted, this driveway exceeds 11% maximum slope, has slopes as much as 19% and the curves in the driveway cannot conform to the radius requirements of a minimum 28' inside radius on 90 degree curves.

- **Restricted Access/Gates/Security Systems**

Section 902.4 Key Boxes. (1997 UFC) *When access to or within a structure or an area is unduly difficult because of secured openings or where immediate access is necessary for life-saving or firefighting purposes, the chief is authorized to require a key box to be installed in an accessible location. The key box shall be of an approved type and shall contain keys to gain necessary access as required by the chief.*

To prevent the possibility of emergency responders being locked out, access gates shall be operable by means of a key or key switch, which is keyed to the Santa Fe County Emergency Access System (Knox Rapid Entry System). Details and information are available through the Fire Prevention office.

Automatic Fire Protection/Suppression

Due to the location of this/these residence(s), the lack of water and the possibility of them being made inaccessible due to the condition of the single road access in inclement weather, for life safety and property protection this office highly recommends the installation of an Automatic Fire Suppression system meeting NFPA 13D requirements and suggests the homeowner contact their insurance carrier to find their minimum requirements. Assistance in details and information are available through the Fire Prevention Division.

General Requirements/Comments

- **Inspections/Acceptance Tests**

Prior to acceptance and upon completion of any permitted work, the Contractor/Owner shall call for and submit to a final inspection by this office for confirmation of compliance with the above requirements and applicable Codes.

- **Permits**

As required

Final Status

Recommendation for Development Plan **DENIAL** as submitted.


Tim Gilmore, Inspector


Code Enforcement Official

10-04-12
Date

Through: David Sperling, Chief/Fire Marshal

File: DevRev/H/Moseley/100312

Cy: Applicant
Hondo District Chief
Buster Patty, Capt., Fire Prevention Div. 

SPP CLERK RECORDED 11/19/2012