

**MINUTES OF THE  
SANTA FE COUNTY  
DEVELOPMENT REVIEW COMMITTEE**

**Santa Fe, New Mexico**

**December 17, 2009**

This meeting of the Santa Fe County Development Review Committee (CDRC) was called to order by Chair Jon Paul Romero, 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:**

Jon Paul Romero, Chairman  
Susan Martin, Vice Chair  
Don Dayton  
Maria DeAnda  
Juan José Gonzales  
Charlie Gonzales  
Jim Salazar

**Member(s) Excused:**

None



**Staff Present:**

Jack Kolkmeier, Land Use Administrator  
Shelley Cobau, Planning Division Director  
Ted Apodaca, Assistant County Attorney  
Robert Griego, Planning Manager  
John M. Salazar, Case Manager  
Vicki Lucero, Review Specialist

COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss

CDRC MINUTES  
PAGES: 44

I Hereby Certify That This Instrument Was Filed for Record On The 22ND Day Of January, 2010 at 10:44:53 AM. And Was Duly Recorded as Instrument # 1589042 Of The Records Of Santa Fe County

Witness My Hand And Seal Of Offl. Deputy *Valerie Espinoza* Valerie Espinoza County Clerk, Santa Fe, N.M.

**APPROVAL OF AGENDA**

Ms. Cobau noting the following changes:  
New Business items:

- Sustainable Land Development Plan Tabled
- Case #MIS 09-5390, Malezewski. Tabled
- Amendment to San Marcos District Community Plan Withdrawn
- Case #V 09-5500 Ruthling Klaussen Tabled

- Case #MIS 09-5510, Tatum Tabled
- Case #APP 09-5450 Santa Fe Mtn. Center Appeal Tabled [*Exhibit 1: Verification of table request*]

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

#### **APPROVAL OF MINUTES: November 19, 2009**

Member DeAnda moved to approve the minutes. Member Martin seconded and the motion passed by unanimous [6-0] voice vote.

#### **FINDING OF FACT**

- a. **CDRC Case #DP 09-5470 ACE Towing Service. ACE Towing Services, applicant, David Luna, Owner/Operator, requested development plan approval for a towing service and vehicle storage yard on 1.33 acres. The property is sited within a Traditional Mixed-Use Sub-District under the Pojoaque Valley Traditional Community District Ordinance No. 2008-5. The property is located at 1708 A&B, NM 592, within Section 12, Township 19 North, Range 8 East, District 1 (Approved 5-0)**

Ms. Cobau said the final order is a summary of the case heard and approved by the CDRC inn May 2009.

Member Martin moved to approve the findings of fact. Member C. Gonzales seconded and the motion passed by unanimous [6-0] voice vote.

#### **OLD BUSINESS**

- A. **CDRC CASE # V 09-5420 Luke and Megan Stavrowsky Variance: Luke and Megan Stavrowsky, applicants, requests a variance of Article II, Section 4.3.2c (Family Proper) of the Land Development Code to allow a Family Transfer Land Division of 40 acres into two 20-acre lots from a child to a parent. The property is located at 3201 Highway 14, within Section 17, Township 14 North, Range 8 East - Commission District 3**

Mr. John M. Salazar reviewed the staff report as follows:

“The applicants have stated their parents currently live in Texas and are both in their 80s and need more help both physically and financially. The applicants have

owned the 40-acre property since 2003. The property lies within the Homestead Hydrologic Zone where the minimum lot size is 40 acres with water restrictions.

“A family transfer land division allows for the creation of a lot of half the minimum lot size. The 40-acre lot has been in the family proper for over five years and can be divided as a family transfer into two 20-acre lots with water restrictions.”

Mr. J.M. Salazar explained that the Code defines family proper as the lineal line of descent from an ancestor or hereditary. Son to father is not considered a line of descent per Code. All other elements of the request meet the family transfer requirements.

He indicated that staff supports the variance request and views the request as a minimal easing of the Code. Staff recommends approval with the following conditions:

1. Water use shall be restricted to .25 acre-feet per dwelling. A water meter shall be installed for both homes. Annual water meter readings shall be submitted to the Land Use Administrator by January 31<sup>st</sup> each year. Water restrictions shall be recorded in the County Clerk's office.
2. The applicant shall submit for plat approval for the family transfer land division to be processed administratively and comply with plat conditions.

Member JJ Gonzales said he found it unusual this request was to transfer property to the parent. He noted the only other avenue to split the lot would be through the subdivision process.

Mr. J.M. Salazar said this type of family transfer has been approved in the past in La Cienega.

Duly sworn, applicant, Luke Stavrowsky said the request was being made to take care of his parents. He said he wants to take care of his elderly parents rather than placing them in a retirement facility. As a stay-at-home father and artist, Mr. Stavrowsky said he looks forward to raising his children with his parents nearby.

Mr. Stavrowsky thanked the CDRC for considering his request.

There were no other speakers regarding this request and the public hearing was closed.

Member DeAnda asked staff if the family transfer contains a reversion clause in the event the parents do not move here; does it reconsolidate? Mr. JM Salazar stated that if the request is approved by the BCC then the property will be deeded to the parents.

Member DeAnda said the Code was clear that the property is transferred in a downward matter in the family transfer provision.

Member DeAnda said the applicant failed to demonstrate that the request was in the nature of an emergency.

Mr. Apodaca suggested the applicant could be asked whether a condition of reversion could be placed on the deed to address Member DeAnda's concerns.

Member C. Gonzales asked what happens to the land when the parents pass on.

Addressing the applicants, Chair Romero asked if they would agree to a reversionary clause. Mr. Stavrowsky said his parents would be selling their home in Texas and making an investment in Santa Fe. He has seven siblings and his parents will want to distribute their property equally.

Member DeAnda said the family transfer has a very limited purpose and what Mr. Stavrowsky proposes is clearly outside of those.

Mr. Stavrowsky repeated that his intention is to take care of his parents and time is a consideration.

Ms. Cobau advised the CDRC of past actions regarding family transfers and land divisions. The parcel deeded over to the receiver contains a plat note stating they have to retain the property for three years. If they sell it before the three-year period ends they are responsible for off-site road improvements.

Member DeAnda repeated her concern that the applicant has not demonstrated any emergency situation. Member C. Gonzales noted that a family transfer request does not require hardship and the variance in this case is the line of transfer.

Ms. Cobau confirmed that the variance is being requested because the conveyance is from child to parent rather than parent to child.

Megan Stavrowsky, under oath, said there is urgency. She said her mother-in-law has COPD and "they can't take care of themselves." If the CDRC approves this her in-laws are moving here. She said none of her husband's siblings can take care of their parents and this is the option.

Member C. Gonzales moved to approve CDRC V 09-5420 with staff recommendations. Member Martin seconded. The motion passed by majority [5-1] voice vote with Member DeAnda voting against.

- G. CDRC CASE # V 09-5270 Bryan Berg Variances: Bryan Berg and Kristin Carlson, applicants, request approval of eight variances of the Uniform Fire Code and Urban Wildland Interface requirements and of Article VII, Section 2 (Liquid Waste Disposal), Article VII, Section 3 (Terrain Management), Article V, Section 8.2 (Road Design), and Article III, Section 2.3 (Site Planning Standards for Residential Use) of the Land Development Code: 1) to allow the height of a residence to exceed 18 feet and to allow the overall height (from highest parapet to lowest natural or finished cut grade) to exceed 30 feet; 2) to allow the slope of the driveway to exceed 11 percent; 3) to allow a driveway to be less than 14 feet wide (as required by Fire Code); 4) to allow a turn around that does not meet Fire Code requirements; 5) to allow a retaining wall greater than 10 feet in height; 6) to allow a conventional**

**liquid waste disposal system rather than an advanced liquid waste system; 7) to allow disturbance of slopes greater than 30 percent; and 8) to allow a finished floor elevation to exceed 5 feet above natural grade. The property is located at 11 Mountain Top Road, within the Overlook Subdivision, within Section 16, Township 16 North, Range 10 East (Commission District 4) [Exhibit 2: Support letter from neighbor; Exhibit 3: applicant's support material]**

Vicki Lucero, Case Manager, read the case caption and offered the following information regarding this case:

“The subject property is an existing 6.06-acre legal lot within the Overlook Subdivision. The lot is currently vacant, however, there is an existing 816-foot driveway and small building pad that was created by a previous owner. The applicant is proposing to construct a 4,441 square foot (heated) three-story residence with a building footprint of 2,463 square feet which includes patios and portals, as well as a 330 square foot studio.

“The property consists primarily of difficult terrain with some small areas of 0 percent to 20 percent, and 20 percent to 30 percent, but the majority of slopes on site exceed 30 percent.

“Article VII, Section 3.4.1.c.1.c of the County Land Development Code states that natural slopes of 30 percent or greater are no-build areas and shall be set aside from use for development. The proposed lot contains some scattered areas that are less than 30 percent slopes. The applicants are requesting a variance to allow disturbance of 30 percent slope in order to construct a parking area along the driveway. A portion of the house and studio, approximately 32 percent, will be constructed on 30 percent slopes or greater.

“Article VII, Section 3.4.3.d of the CLDC states retaining walls shall not exceed 10 feet in height. The applicant is proposing a 13’6” retaining wall. The applicant states that because of the limited buildable area on site there is not enough area for parking, therefore, in an effort to create parking and keep it and the retaining wall itself non-visible and to minimize the disturbance of 30 percent slopes, the applicants are requesting a variance of the height requirement.

“Article V, Section 8.2 (Appendix 5.A) of the CLDC states that the maximum grade for a road/driveway accessing one lot is 11 percent. The maximum road grade is also limited to 11 percent per Section 902.2.2.6 of the Uniform Fire Code. There is an existing driveway that was created by a previous owner which is at 19 percent grade. The applicants are proposing to bring it down to a maximum grade of 12.69 percent. The applicants state that the grading that would be required to bring the existing driveway down to 11 percent would be out of character for the surrounding landscape and neighborhood and would increase the existing cuts and cause irreparable damage to the land. Also, the cost of such

grading would render them unable to develop the parcel. Therefore, in the interest of keeping the proposed development affordable and appropriate to the site in question the applicants are requesting a variance to this requirement.

“Article VII, Section 2.4.10 (Table 7.2) of the CLDC states that conventional liquid waste disposal systems cannot be used on slopes greater than 15 percent. The applicants have met with NMED and have obtained a permit from them for a conventional septic system. However, because this is not allowed by County Code the applicants are requesting a variance.

“Article III, Section 2.3.6.b.1 of the CLDC states that the height of any dwelling or residential accessory structure located on land which has a natural slope of 15 percent or greater shall not exceed 18 feet and that the vertical distance between the highest point of a building and the lowest point of a building at natural grade or finished cut grade, whichever is lower, shall not exceed 30 feet. The applicants are proposing a maximum building height of 28 feet 10 inches and an overall building height from highest point of building to lowest point of building at finished cut grade of 39 feet 2 inches. The applicants state that in an attempt to build a passive solar dwelling, utilize rainwater collection, disturb only those areas previously disturbed, and retain all significant trees a height variance is needed.

“Article VII, Section 3.4.1.d.6 of the CLDC states that for a structure built on a natural slope of over 20 percent, the finished floor elevation at any point shall not exceed 5 feet above the natural grade below that point. The applicant is proposing a maximum finished floor height of 14 feet above natural grade for portals and 9 feet above natural grade for the residence. The applicants state that they are requesting a variance of this requirement in order to provide the smallest possible footprint and disturbance of terrain for a single-family residence, and maximum solar exposure for a passive solar design.

“Ordinance No. 2001-11, the Wildland Interface Code, mandates a uniform 14-foot width for driveways that must allow access for emergency vehicles. The applicants are requesting a minimum driveway width of 12 feet along some portions of the driveway. The applicants state that the cost of such improvements would begin to exceed the cost of the parcel just one year ago, and would render them unable to afford the improvements and they would be denied rightful use of the property. Therefore, a variance is requested.

“The Uniform Fire Code states that dead-end roadways more than 300 feet in length shall be provided with a turnaround at the terminus having no less than 120 feet outside diameter of traveled way. A “hammerhead-T” turnaround to provide emergency vehicles with a three-point turnaround ability may be allowed. The applicants are proposing to build a parking area 60 feet long and 33 feet 6 inches deep located along the edge of the driveway to help minimally accommodate emergency vehicles. The applicants state that given the extreme topography of

the site, the construction of a legal sized hammerhead solely dedicated to emergency vehicles would not only eliminate a feasible building site but would far violate beyond reason the intent and parameters of the ordinance for: building height, retaining wall height, removal of significant trees, visibility from a major arterial, and disturbance of slopes exceeding 30 percent.

“The Fire Marshal has reviewed this application and does not support the requested variance.

“The applicant is proposing a 4,441 square feet multi-level residence. Based on the proposed width and grade of driveway and inadequate turnaround an emergency vehicle would not be able to access the site, therefore, the County Fire Marshal’s Office is recommending denial of this request.

“The subject property is a legal lot of record. The lot is limited by excessively steep terrain which makes it difficult to construct a residence and a driveway that meet County Code Requirements.

“Land Use staff has conducted a site visit and reviewed the slope analysis and has determined that there is no other buildable area on the site. It is staff’s position that the variances requested are unavoidable due to the rugged terrain and small buildable area on the property.

“Staff recommends approval of the variances of Article VII, Section 2, liquid waste disposal, and Article VII, Section 3, Terrain Management. Strict compliance with the requirements of the Code could result in extraordinary hardship to the applicant. The applicant is seeking a height variance that would allow for passive solar design. The New Mexico Solar Rights Act states that a county or municipality shall not restrict the installation of a solar collector as defined pursuant to the Solar Rights Act.”

Ms. Lucero stated that staff recommends approval of the requested variances of Article III, Section 2.3, Site Planning, to allow the height of the residence to exceed 18’ and to allow a retaining wall greater than 10 feet in height subject to the following conditions:

1. A disclosure statement releasing Santa Fe County of all liability, signed by the applicant and notarized, must be recorded with the warranty deed or survey plat in the County Clerk’s office.
2. No grading or disturbance of ground beyond grading limits shown shall occur. Except for developable areas for building envelopes, roads, or driveways, disturbance of natural vegetation shall be prohibited. Cleared or graded areas, or cut and fill areas shall be re-vegetated to the approximate original density and type of vegetation existing prior to disturbance.

Member JJ Gonzales said the eight variances to develop one house concerns him. He supported the height variance to obtain the solar gain. However, the notion of hauling

the gravel necessary for the septic system up the road was not a good idea and if the width of the road is inadequate for fire vehicles – that’s a big problem especially during the winter. He considered the applicant consider building something smaller than the proposed 4,000 square feet with four bedrooms. In fact, the applicant’s plans appear to exceed the County-imposed water restriction of .25 acre-feet per year.

Observing that the applicant is installing a big septic system, Member JJ Gonzales suggested that the applicant find room for a hammerhead turnaround for fire trucks and resubmit his plans.

Mr. Lucero said the terrain is very steep and she didn’t think reducing the house size would decrease the variances.

Member Dayton said he too was concerned about the variances especially failure to comply with fire safety issues. He mentioned the potential of a fire spreading and damaging other properties in the area.

Assistant attorney Apodaca concurred with Member DeAnda that the Solar Rights Act states that counties and municipalities shall not restrict the installation of a solar collector. There isn’t a prohibition to stop from conditioning solar collectors, i.e. reducing the height.

Member C. Gonzales said he agreed with the other members regarding the fire access. He asked about the after-the-fact requests for grading. He asked if the property was located in the Mountain Special Review District and classified as ridgetop. Ms. Lucero said the property had been in the MSRSD but through annexation it no longer is.

Member G. Gonzales said he was not prepared to support the height variance.

Member Salazar asked whether annexation removed all special protection that the MSRSD provided. Ms. Lucero said that was correct; the only governance is the terrain management provisions.

Member Salazar said he found it disturbing that property that was considered important enough to protect a few years ago is no longer special. He said these sensitive areas are now left open by the rescinding of the ordinance.

Ms. Cobau said the annexed areas into the city did not repeal the MSRSD. She noted that if the applicant is required to clear additional land to open the road they will need an additional variance to remove significant trees on slopes over 30 percent. The MSRSD contained few differences from the County Code: retaining wall height, reflectivity, earth tone colors, etc.

Regarding the grading, Ms. Lucero said she understood it was done 30 years ago.

Duly sworn, applicant Bryan Berg distributed a packet of information regarding his request [*Exhibit 3*]. He appreciated the Committee’s concerns regarding the request for eight variances and indicated that he purchased the property two years ago aware of



the Code restrictions and the difficulty of the lot. He expressed confidence that he could explain the needs for the variances and how the variances would protect the natural setting. Referring to one of the site maps, Mr. Berg said the driveway road that has not been disturbed in 30 years is drivable. To bring the driveway into compliance with the Code would require cutting down 13 feet in addition to the existing drive. Permitting the existing driveway saves hauling away what has been calculated as 500 dump truck loads of rock and earth. At present, the driveway is not visible, but to bring it to Code would require the removal of acres of trees.

Mr. Berg said he has met with Chief Buster Patty and Hondo Fire Chief Chilton as well as Land Use staff to discuss the driveway. Chief Patty's position is that unless it meets the Code he cannot and will not support it.

Mr. Berg contended that the proposed residence has a smaller footprint than the hammerhead turnaround. The house is being built on top of a cut-fill situation and staying on the already disturbed area. He discussed the cistern system he would install for a rainwater catchment system and indicated they would collect at least 70 percent of their water needs – adding that counting the portals the percentage would be higher.

Mr. Berg said with a 1,700 square foot footprint and subtracting out the space needed for the utilities and the water catchment, he said he would be left with less square footage than the Overlook Homeowners Association allows.

Referring to the septic system, Mr. Berg said no matter what he installs he will have to construct a pipe and gravel field. He displayed a model of the property with trees and slope and located where the system would be located. Reducing the house by 50 percent will eliminate less than 70 feet of pipes. He mentioned that most of the septic installers he spoke with recommended a backup for any high performance system thus taking up more space.

Situated on a north slope, Mr. Berg said the solar rights law allows the owner to have the direct line of the sun from 9 a.m. to 3 p.m. He said to gain from the 9 a.m. sun he would have to build his house three times higher – and instead he will gain the sun at 11:00 a.m. Mr. Berg said he was trying to find the common ground between what is reasonable and what will allow it to work. The plan as he has proposed will allow for a true net solar gain. The house was designed to shield the neighbors from the viewing the solar and renewable infrastructure.

Mr. Berg said he and his wife reviewed the Code to determine what it is the Code wants the developer to do in this area. If the variances he has requested are approved he was confident that it would disturb far less than if he followed the Code. With story-poles, the CDRC would see that his house is less visible than existing structures.

Fire protection wise, Mr. Berg said he has offered to install a sprinkler system; the construction materials are entirely fire proof.

Member C. Gonzales asked whether the applicant investigated ground-mounted solar collectors at the site. Mr. Berg said because the property is north facing the snow is

present most of the winter. He said he commissioned a local solar PV installer that measured the solar gain at different heights on the property.

Mr. Berg said he fully appreciated the Committee's prudence in its review for eight variances, however, he said he was expected this contest and can respond to all challenges to the variances.

Referring to a detached studio space, Mr. Berg said that was not a deal-breaker and was not terribly important.

Member DeAnda said her concern remains that 32 percent of the dwelling will be situated on 30 percent slope.

Mr. Berg identified the fill area on the lot and the underground utility facility excavation area. He reasoned that since he will be excavating for utilities it made sense to put additional dwelling space in that area. He said his focus was to avoid removing trees and staying within the previously disturbed slopes.

Mr. Berg said he feels so confident about his proposal and request for variances that he was prepared to submit his plans when the MSRD was effective.

Member DeAnda asked whether the applicant discussed reducing the square footage with staff. Mr. Berg defended his 1,750 square foot footprint as a way to allow the septic system and dwelling – even if he reduced the structure it would not reduce the footprint because of the alternative systems he is using – rainwater catchment, sprinkler system – take up a great deal of space.

A question regarding which well group he was in came up and Mr. Berg said everyone in his well group is in agreement. Member JJ Gonzales asked about water restrictions on the well and Mr. Berg did not know.

Duly sworn, Eric Knee said he has two homes in the area and two wells and after 30 years he has never had a problem with them. All the wells are built down in La Barbaria Canyon rather than building in the mountains so the water is pumped up and there is a wash that collects the water. He said the wells seem to have maintained the same level over the past 30 years.

Responding to questions posed by Member JJ Gonzales Mr. Knee said he thought they had water restrictions and there were six or seven dwellings on each well group and he estimated there were six or seven well groups and six or seven wells, adding that he was on two different well groups.

In response to the question of whether meter readings were reported to the State Engineer or the County, Mr. Knee said they have individual meters and a master meter at the well and they "pretty much keep track of how many gallons are used." Member JJ Gonzales asked about the permitted usage and Mr. Knee said he understood the County restricted them.

Mr. Knee said he reviewed Mr. Berg's plans as a member of the Overlook Architectural Review Committee and they all agreed the plans were appropriate for the lot. He added that it was a good plan and Mr. Berg is environmentally friendly. Regarding the accessibility problem for the fire department, Mr. Knee said there are many driveways in the area that can't be accessed.

Member JJ Gonzales encouraged the applicant to adhere to the County requirement for an advanced liquid waste disposal system. Mr. Berg said this property will be his house and he wants the septic system to work. As a licensed New Mexico contractor (GB98), Mr. Berg said he has a great many of the resources that other people would have to hire out to do. He said ED has been up to the site and is very pro pipe and gravel for the site, adding that he grew up on a farm in Iowa that had a pipe-and-gravel septic system that is over 50 years old.

Member JJ Gonzales said he was not convinced that 150 feet of trenching is the best system. If the conventional system were proposed in an area under 10 percent there would be no problem, but in a 30 percent area the County requires an advanced system. He asked the applicant to explore advanced liquid waste disposal systems and adhere to the County Code.

The CDRC recessed for 10 minutes and Vice Chair Martin assumed the duties of the Chair.

Duly sworn, Sheila Millendorf said she and her husband have been permanent residents of Overlook for 19 years. She presently serves on the Overlook Homeowners Association Board of Directors and Chair of the Architectural Committee. In her 19 year experience with Overlook she knows the architectural review committee to be a stringent and demanding group.

Ms. Millendorf said the architectural committee spent many hours with Mr. Berg to understand his plans and variance needs. She said the committee believes with Mr. Berg that they are for the better of "our mountain." The committee walked the site with Mr. Berg and realizes that the house will be built around 40-foot to 50-foot ponderosa pines that will shield the view of the house from front and back. In fact, they were unable to discern the story poles for the dwelling.

Ms. Millendorf said the architectural committee will be recommending to the Overlook Board of Directors that the plans as submitted so far be approved.

Communicating that she loves the area, Ms. Millendorf said "where in the world can you go to grand opera and come home to a ponderosa pine forest and have a bear look into your bathroom window? That to me is Santa Fe."

In response to Member DeAnda's question of how many of the 42 home sites have been developed, Mr. Millendorf offered 33 or 34.

There were no other speakers and that concluded the public hearing.

Member C. Gonzales said the topo maps did not contain an engineer's stamp. Ms. Lucero said the applicant will be required to provide stamped topo maps. She indicated that the applicant placed story poles on the corners where the residence would be located and based on staff's site visit it appears the home is not visible for miles.

Member DeAnda asked additional questions regarding the turnaround that would make it accessible for emergency vehicles and Ms. Lucero responded that significant trees would have to be removed, there be more disturbance of the 30 percent slope in the parking area and the retaining wall extended.

Member Salazar said in order to provide a hammerhead turnaround it appeared to him that only an isolated portion of the retaining wall would need to be extended. As a life safety issue, he encouraged the Committee to consider the turnaround variance very seriously.

Mr. Berg said without being on site it was difficult to understand the particular constraints of the terrain. He said the former Hondo Fire Chief Clifton inspected the site and offered that a true hammerhead could not be achieved on the site. He said if he was required to step the proposed wall it "would at least double the area of disturbance." He offered that the equipment necessary to accomplish the digging far outpaces the roadways that lead up to the area. He said a staging area would be necessary with additional tree loss.

Mr. Berg said he "was desperately arguing" that if forced to build the hammerhead he wanted the Committee to know the impact of building the residence will be minuscule compared to the impact of building the hammerhead and removing 50 to 80 additional trees: "It will be an atrocity." He asked that approval be conditioned on further investigation for a turnaround adding he was willing to work with Buster Patty to come up with the best design.

"I'm really, really pleading with you to understand that without us walking out there and seeing it, it is very difficult to imagine the scope of the project," stated Mr. Berg. He said he is doing the right thing for the property and staff has agreed to the eight variances.

Referring to Mr. Berg's earlier comment that he had a very small yard, Member C. Gonzales asked him what irrigation needs he had. Mr. Berg said the 5,000 tank is the necessary size cistern and will "massively" supplement their water use.

Member JJ Gonzales recommended tabling the case and scheduling a site visit. Mr. Berg welcomed the idea adding that it would have to be accomplished soon because he was going to Asia for a few months.

Mr. Apodaca pointed out that any time there is a quorum of the committee present it constitutes a public meeting requiring public notice, etc. Further, he cautioned that talking to the applicant would be *ex parte* communications and create a legal issue.

Mr. Berg said without his presence to serve as a guide it will be very difficult to understand the site.

Ms. Cobau said staff can accompany a non-quorum to the site. Mr. Apodaca repeated his warning that information may not be obtained from the applicant.

Member DeAnda said she supported tabling the case until the issues raised can be explored particularly the turnaround.

Member DeAnda moved to table CDRC Case V 09-5270. Member CC Gonzales seconded and the motion passed by unanimous voice vote.

- H. **CDRC CASE # Z 08-5450 Cimarron Village Master Plan: Joseph Miller, applicant, Land Development Consultants (Danny Martinez) Agent, request a master plan amendment to the previously approved Cimarron Village development to allow a mixed-use development consisting of 34 commercial lots, three single-family residential lots, 20 live/work units, and 30 townhouse units for a total of 53 dwelling units on ±81.69 acres and a rezoning of an 8.126-acre parcel to a Neighborhood Mixed-Use zoning designation for residential and commercial development. The property is located east of Eldorado on the east side of US 285, off Colina Drive and Camino Valle, within Sections 9 & 16, Township 15 North, Range 10 East (Commission District 5) [Exhibit 4: County Fire Department Submittal Review]**

Ms. Lucero read the case caption and provided her staff report as follows:

“On January 12, 1993, the BCC granted approval for the creation of a Village Center Commercial District and master plan zoning approval for a large-scale mixed-use development, Cimarron Village, consisting of 34 lots – 22 commercial lots, one community service lot, eight multi-family lots, and three single-family lots.

“The applicant is now requesting a master plan amendment to bring the original master plan into compliance with the US 285 South Highway Corridor Zoning District Ordinance, which was not in effect at the time of the original master plan approval. The amended master plan would also increase the residential density to a total of 53 dwelling units and increase the number of commercial lots to 34 in addition to having live/work units. Approximately 21.8 acres of the subject property is located in the Village Mixed-Use area as designated in the US 285 South Corridor Ordinance which allows for higher densities. Therefore, this proposal conforms to the density allowance of the ordinance.

“The applicant is also requesting a rezoning of an 8.126-acre parcel located on the northwest corner of US 285 and Camino Valle to a Neighborhood Mixed-Use

Zoning designation. Under Ordinance No. 2005-08 this particular parcel is eligible for Neighborhood Mixed-Use Zoning.”

Ms. Lucero said the development will be completed in six phases and was reviewed for access, water, fire protection, liquid and solid waste, terrain management, archaeology and affordable housing.

Staff review finds the development in compliance with Article V, Section 5.2, Master Plan Requirements of the County Land Development Code, and is consistent with the US 285 South Highway Corridor Zoning District Ordinance therefore staff recommends master plan zoning approval subject to the following conditions:

1. All redlines comments must be addressed.
2. Master plan with appropriate signatures must be recorded with the County Clerk.
3. Compliance with applicable review comments from the following:
  - a) State Engineer
  - b) State Environment Department
  - c) Soil & Water District
  - d) State Department of Transportation
  - e) County Hydrologist/Water Resources Dept.
  - f) Development Review Director
  - g) County Fire Marshal (Site Plans & Building Plans)
  - h) County Public Works
  - i) State Historic Preservation Division
  - j) Technical Review Division
  - k) County Open Space, Parks and Trails Division
  - l) Public Schools District
  - m) County Housing Division
  - n) County Planning Division
4. Development within the US 84-285 Highway Corridor shall comply with the district standards of the US 285 South Highway Corridor ordinance (Ordinance No. 2005-08).
5. Complete access permits will be required from NMDOT for access off US 285.
6. If the residential units are ever converted into condominiums that will be sold this development will be subject to the County’s Affordable Housing Ordinance. This shall be noted on the Master Plan. [*amended at motion –See page 19*]
7. Village and neighborhood mixed use areas shall be shown on the Master Plan. Village mixed use area shall not exceed 21.8 acres.
8. A revised water budget must be submitted for review and comment prior to this case being heard by the BCC.
9. An updated Traffic Impact Analysis will be required at preliminary development plan stage.
10. Solid waste removal must be addressed in a maintenance agreement at preliminary development plan stage.
11. The topography and terrain management plans must be consistent.
12. The development must provide a minimum of 25% residential floor area and a minimum of 25% of non-residential floor area. Total residential development shall not exceed 50% of the total square footage of development.

Member JJ Gonzales asked about the 1993 approval and Ms. Lucero said it was for master plan and nothing was built as a result of that approval. She noted there is a currently a convenience store, gas station and country store on the property but nothing was built in accordance of the master plan.

Ms. Lucero explained that the time the moratorium was in effect was not calculated against the expiration to the master plan.

Ms. Lucero said there are different architectural standards based on the 285 Corridor Ordinance which also allows for higher densities.

Member Salazar asked about affordable housing ordinance and how it was this application did not address those requirements. Ms. Lucero said after discussion with Housing Authority staff and legal counsel it was determined that the Affordable Housing Ordinance does not address rental units and therefore the live/work units are not subject to the ordinance. She said the live/work units are strictly rentals.

Member DeAnda recommended that wording on condition 6 be clarified to include: If the residential rental units are ever converted into condominiums that will be sold this development will be subject to the County's Affordable Housing Ordinance. This shall be noted on the master plan.

Duly sworn, Danny Martinez, agent for the applicant, said the project was approved 19 years ago and 11 of those years were moratorium. He mentioned that property owner Joe Miller worked on the 285 Corridor task force. He discussed the allowable development at intersections and said the plan has been worked out with staff over the years. The 285 plan designated areas for commercial and this amended master plan has been reworked and refined to better meet the intent of the ordinance.

Stating he was surprised affordable housing does not apply to rental units, Member JJ Gonzales asked whether Mr. Miller would own the rentals and if they are designated to remain rentals for an indefinite period of time. Mr. Martinez said they are being built as rental units. If a status change is desired it will require an amendment to the master plan.

Member JJ Gonzales said the wastewater appears to be sited in an open space area by a lagoon near 285 and he asked whether it was for the first phase only and if perhaps it could be set further back from the road. Mr. Martinez said the lagoon was not directly off 285 and used a site map to better locate it. The treatment plant will be bermed and shielded with landscaping from 285. The gray water is pumped up to a lagoon and then the water is gravity fed to feed the irrigation needs of the commercial development.

Member JJ Gonzales asked whether the open hiking trail included equestrian use. Mr. Martinez stated Cimarron Village open space is for its residents and, in fact, Eldorado Wilderness will not connect or be accessible from Cimarron.

Mr. Martinez said Phase 1 consists of four lots, three as single family dwelling and the corner lot is designated commercial. Phase 2 is commercial and has water and sewer lines with fire hydrants and water meters. He guestimated it would be 20+ years for full development. He said Mr. Miller has waited 19 years to develop his property and is ready to move forward.

Member Dayton said over the years water has been an issue in Eldorado and asked Mr. Martinez to discuss that matter. Mr. Martinez said Mr. Miller has worked on this issue with Eldorado Water Utility, County staff and the State Engineer's Office. Mr. Miller is transferring water rights within the Eldorado Basin to the Eldorado Water Company and transferring five proven wells to the water company that have the capability of producing nearly half the capacity the company currently produces.

Joe Miller, under oath, stated that he and his attorney met with the County attorneys, County contract attorney, and land use staff as well as meeting with the Eldorado Water Board. An agreement was reached that he would give the Eldorado Water Company five wells all located on the Cimarron property. The biggest of the wells is a minimum of 300 gpm. He provided details of the drilling, pumping and its ability to refill. He suggested that the wells will produce 8 to 9 times the amount of water needed for the entire built-out Cimarron Village.

Mr. Miller requested an amendment to condition 6 adding the following sentence: *If the residential units are ever converted into condominiums that will be sold this development will be subject to the County's Affordable Housing Ordinance to the extent that the ordinance is subject to the Constitution of the United States and the Constitution of the State of New Mexico. This shall be noted on the master plan.*

Mr. Miller said the master plan was approved and recorded in 1995 and after a series of tabling in 1996 the emergency moratorium was enacted and the project stalled. He discussed his opinion of the affordable housing ordinance which he said prohibits anybody from subdividing land by taking 30 percent of ones land.

Mr. Miller said his subdivision is needed out there and will provide services to the 12,000+ residents of the Eldorado area.

Vice Chair Martin opened the hearing to the public.

Duly sworn, Muriel Fariello, Galisteo, stated she serves on the Ranchitos de Galisteo Homeowners Association and the Advisory Board of the Galisteo Water System as well as the Galisteo Community Association.

Ms. Fariello said imminent breakup of the Saddleback Ranch will greatly impact Galisteo's water situation. She stated "we are in a lawsuit with the Eldorado water rights protest...they want more want to obviously build out more."

She disagreed with Mr. Miller's assertion that more commercial was needed in Eldorado noting one of the recent commercial complexes in the area is in foreclosure.



The impact of Cimarron and another development Mr. Miller is attempting on the other side of 285 will impact our communities. More police, fire, and schools will be needed.

Ms. Fariello said she doubted the hydrology reports that prove 100 years of water. Wells along CR 41 have significantly gone down and she mentioned a number of small developments that have had water as well as sales problems.

Under oath, Roger Taylor, Galisteo, encouraged the Committee to consider how to manage long-extended approved projects to develop a re-approval process. From a historical viewpoint, Mr. Taylor said in the early 90s very few houses could be seen in the area and it was very dark compared to now where the area is developed and well lit. The population, land and water use impacts the area.

He too mentioned the lawsuit with Eldorado regarding water rights.

Duly sworn, Jim Jenkins, president of the Eldorado Area Water & Sanitation District, said he was present to explain the process. The water district is chartered by state statute as a quasi-municipality. He said they have official boundaries and are required by law to provide service to any property or development within those boundaries. The large parcel that the applicant is referencing here is within the official boundaries of the water district.

The water district has invested time and money to debunk two popular myths. The first myth is that there is no water in Eldorado: A 2007 independent hydrological study showed large supplies of water. He noted that one of Mr. Miller's wells is particularly good and has been transferred along with four other wells to the district. The other myth is that water pumping in Eldorado is affecting communities as far out as Cerrillos or San Marcos. Through an independent hydrology modeling and working with the State Engineer's Office, the model shows no impairment to those areas.

Mr. Jenkins said Miller's wells will add to the pumping capacity which is adequate for eight or nine months of the year but only marginally adequate during the high water times – late spring/early summer. He said fire protection is a problem in the summer time and Mr. Miller's well plus another well under acquisition will provide the capacity to meet those needs.

Member DeAnda asked Mr. Jenkins who the parties are to the lawsuit that was mentioned. Mr. Jenkins responded he was not aware of any lawsuit. He said they were not pursuing additional water rights except under their water service policy which says if one wants water service from the district, water or water rights must be brought to the table. He anticipates a final order on the district's final water rights late spring.

Member JJ Gonzales asked whether the District has talked to the State Engineer's Water Rights Division regarding their ability to serve this development. Mr. Jenkins said he was not aware of the letter but it appears to be a case of the cart before horse. He said they have been working with the Water Rights Division for over two years and there is an agreement that the District has approximately 1,037 acre-feet of water rights. Currently, the District uses 700 acre-feet. The attorneys and hydrologists of the Water Rights Division are erring on the side of 1,037 acre-feet meaning there is surplus.

Member JJ Gonzales asked about the water rights of a well recently drilled at 285/Avenida Vista Grande. Mr. Jenkins said water rights have been moved to that because it is a supplemental well to the rest of the wellfield. He estimated it was within a quarter mile of Mr. Miller's well in the open space. He said the wells will not impact each other when pumped. Mr. Jenkins said the granite formation the wells are in is highly fractured and the fractures are far apart and relate little to each other.

Member JJ Gonzales pointed out that Mr. Miller's development will require 10 acre-feet at full build out and he asked where the utility would get additional water rights to transfer to the well. Mr. Jenkins said at present they are working with the Water Rights Division to designate the wellfield eligible to transfer water.

Mr. Jenkins said the district will check the flow rate on Miller's well and conduct a pump test to determine impairment on surrounding wells within a mile+ radius. This will be conducted by an independent geo-hydrologist.

Mr. Jenkins said the district serves 25 square miles with 110 miles of pipeline, 15 wells and six tanks.

Ms. Lucero said initially the County Hydrologist had issues regarding the development, however, after receiving additional information from the applicant the hydrologist has imposed conditions for master plan approval.

Ms. DeAnda asked previous speaker Fariello what lawsuit she was referred to in her testimony. She responded that the suit is active and with parties from Eldorado, San Marcos, Cerrillos, Madrid and Galisteo.

Duly sworn, Ann Murray of Cerrillos said it was a water protest not a lawsuit and responded to the questions regarding the lawsuit. She said the OSE letter included in the Committee packet acknowledges that Eldorado has had difficulties in the past providing adequate water service to existing customers and asked that Eldorado provide documentation to prove the necessary quantity to service the proposal. She said from the Village of Cerrillos going up the river various ponds and stock tanks have dropped – the whole basin is going down, stated Ms. Murray.

Ms. Murray said the validity of the district's water rights are in question. She recommended that the Committee obtain a more definitive letter from the OSE regarding this case.

Member DeAnda asked whether Ms. Murray was party to the discussions with the applicant, Eldorado utility and the OSE. Ms. Murray said she was not.

There were no further speakers and Vice Chair Martin gave the applicant an opportunity to respond.

Mr. Martinez said he found it amazing that following an 11-year moratorium some issues are still coming forward. He said water will always be an issue in the

County. The staff report clearly states staff found that Eldorado Water & Sanitation District has sufficient water rights and well capacity to meet the existing demand and the additional needs of the application. He said the applicant will continue to work with the OSE.

Duly sworn, Ross Lockridge of Cerrillos said he was disappointed that Mr. Jenkins failed to mention the fact that they are attempting to meet in mediation with Eldorado and this may end up in District Court.

Member JJ Gonzales asked Mr. Lockridge which water rights, transfer or application was being protested.

Mr. Lockridge said the protesters do not think that Eldorado has rights beyond 600 acre-feet. He said it was not clear that they have sufficient water rights.

Responding to questions posed by Member DeAnda, Mr. Lockridge said the protest is before the OSE, and the outcome could impact the 1972 case that was referenced earlier and the Cerrillos Water Association is party to the mediation process.

Ms. Lucero said the individual phases of the project will come before the CDRC.

Regarding unresolved issues, Member Salazar asked about the open space and trails review that brought up the location of the graywater holding pond in open space and its steep terrain, and the NMED request for individual liquid waste permits. He expressed concern approving this master plan if the applicant has not resolved these issues.

Ms. Lucero said the review comments are based on the current plans. She referred to condition 3 that requires the applicant to comply with the reviewing agencies. Before the applicant can return for preliminary development plat approval those concerns will have to be resolved. She said it is possible the applicant will return for a master plan amendment.

Ms. Lucero said Phase 1 will contain three residential lots and the commercial lot which will be on individual septic systems. Starting in Phase 2 the wastewater treatment system will be effective.

Mr. Martinez said the landscaping requirements the gray water system is vital for irrigation. Member Salazar pointed out that stormwater and rainwater harvesting provides another source.

Member Salazar questioned the recreational functionality of open space on steep slopes. Mr. Martinez said the designated open space is an attempt to preserve this beautiful area.

The public hearing was closed.

Member DeAnda moved to amend condition 6: "When any of the 20 live/work units or the 30 townhouse units are converted into condominiums or offered for sale If

the residential units are ever converted into condominiums that will be sold this development will be subject to the County's Affordable Housing Ordinance. This condition shall be noted on the master plan."

Member Salazar requesting adding "...Housing Ordinance and all future amendments to it."

Member C. Gonzales moved to approve Case Z 08-5450 with all the staff-imposed condition and reworded condition 6 (When any of the 20 live/work units or the 30 townhouse units are converted into condominiums or offered for sale this development will be subject to the County's Affordable Housing Ordinance and all future amendments to it. This condition shall be noted on the master plan). Member JJ Gonzales seconded and the motion passed by majority [4-2] with Members Martin and DeAnda voting against.

#### **PETITION FROM THE FLOOR**

None were presented.

#### **COMMUNICATIONS FROM THE COMMITTEE**

Member C. Gonzales asked that staff contact NMED regarding the Berg variances.

Member C. Gonzales suggested staff consider amending the family transfer provision to permit child to parent transfers with criteria in the Code rewrite.

Vice Chair Martin recommended the new Code address the issue of previously approved master plans that have no to little development for a lengthy period of time.

#### **COMMUNICATIONS FROM STAFF**

Mr. Apodaca thanked the Committee and wished them a happy holiday season and he looked forward to working with them next year.

#### **MATTERS FROM LAND USE STAFF.**

Land Use Administrator Kolkmeier thanked the Committee for their work and attention to these interesting and challenging issues. Next year the CDRC will become the Planning Commission and he looked forward to working with them.

**ADJOURNMENT**

Having completed the agenda and with no further business to come before this Committee, Vice Chair Martin declared this meeting adjourned at approximately 7:40 p.m.

Approved by:

*Jon Paul Romero*  
Jon Paul Romero, Chair  
CDRC

ATTEST TO:

COUNTY CLERK

*Valerie Espinoza* VT

Before me, this \_\_\_\_ day of \_\_\_\_\_, 2010.

My Commission Expires:

Notary Public



Respectfully submitted by:

*Karen Farrell*  
Karen Farrell, Wordswork

## SOMMER, KARNES & ASSOCIATES, LLP

**Mailing Address**  
Post Office Box 2476  
Santa Fe, New Mexico 87504-2476

**Street Address**  
200 West Marcy Street, Suite 142  
Santa Fe, New Mexico 87501

Telephone: (505) 989.3800  
Facsimile: (505) 982.1745

December 11, 2009

Karl H. Sommer, Attorney at Law  
khs@sommer-assoc.com  
Joseph M. Karnes, Attorney at Law  
jmk@sommer-assoc.com  
James R. Hawley, Attorney at Law  
jrh@sommer-assoc.com

Mychal L. Delgado, Paralegal  
mid@sommer-assoc.com  
Magdalena Babuljak, Legal Assistant  
mpb@sommer-assoc.com

Santa Fe County Land Use Department  
Mr. Jose Larranaga  
102 Grant Avenue  
Santa Fe NM 87504

Re: Appeal to CDRC - Santa Fe Mountain Center Business License (09-226)

Dear Jose:

The above-referenced case is scheduled to be considered by the CDRC at its meeting on December 17, 2009. This morning, representatives of my client group and the Santa Fe Mountain Center met in an effort to address and resolve outstanding issues.

The parties agreed that it would be in everyone's best interests to continue working together and also to request that the CDRC meeting be tabled until the January 21, 2010 meeting.

Please confirm that staff will recommend the requested tabling.

Thank you.

Sincerely,

  
Joseph M. Karnes

Cc: Mr. Witter Tidmore



December 10, 2009

County Land Use Administrator  
C/O Vicki Lucero  
P.O. Box 276  
Santa Fe, New Mexico 87504-0276

Richard Buccleu  
12 Mountain Top Road  
Santa Fe, NM 87505

Parcel # 057-094-152-510 and 057-094-134-510

Staff of the Santa Fe County Land Use Department:

I am writing to express my support for the proposal submitted by Bryan Berg and Kristin Carlson for 11 Mountain Top Road. I am certain that I am the only resident of the Overlook who will actually be able to see the development proposed by Bryan and Kristin, and I feel relieved to know that what is being proposed is in the very best interest of the landscape and the neighborhood in general. Additionally, I own the land through which much of Bryan and Kristin's very long driveway easement passes, and I am very opposed to the extensive re-grading and tree cutting associated with bringing the driveway to code as well as the fire truck turn around that would be required by the code. I have reviewed the plans and walked the site and feel very certain that the more minimal treatment of the land as outlined and proposed by Bryan and Kristin is very workable and is much more appropriate for the topography in question.

Many people have looked at purchasing the subject property in the years that I have lived in the Overlook. Many of the prospective buyers would stop at my home and ask me questions about the property and in general seem very intimidated by the idea of attempting to build on the parcel. Bryan and Kristin came along, and were not only able to figure out how to build on the parcel, but in such a way that keeps the trees and the scenery the way it was intended to be. Not all applicants would be so kind to the land, and I sincerely hope you will see the excellence in this proposal and give it your support.

I intend to attend the hearing on December 17, but there is a chance I will not yet be back in town to support Bryan and Kristin in person. I hope you will take this letter as proof of my support for this excellent project, and I strongly encourage you to support it as well. If Bryan and Kristin are denied, and at a later date someone else makes a proposal for the same parcel, it is more than likely it will not be so thoughtfully considered.

You may contact me on my mobile: 505.310.7958

Very Truly Yours, Richard Buccleu

A handwritten signature in black ink, appearing to read "Richard Buccleu". The signature is written in a cursive style with a large, looping initial "R".

**Jose Larranaga**

**From:** sky [sky@santafemc.org]  
**Sent:** Monday, December 14, 2009 10:07 AM  
**To:** Jose Larranaga  
**Cc:** Shelly Cobau  
**Subject:** RE: Santa Fe Mountain Center - Requested Continuance

Yes, we met and made some headway. We would like to meet at the CCJRC in Jan.

Thanks for checking in and verifying.

Best and happy holidays to you both.

Sky

---

**From:** Jose Larranaga [mailto:joselarra@co.santa-fe.nm.us]  
**Sent:** Friday, December 11, 2009 4:39 PM  
**To:** sky  
**Cc:** Shelly Cobau  
**Subject:** FW: Santa Fe Mountain Center - Requested Continuance

Sky,

I received this table letter from Joseph Karnes.  
Are you in agreement?  
If so I need something in writing.

Thanks,  
Jose

---

**From:** Joseph M. Karnes [mailto:josephk@sommer-assoc.com]  
**Sent:** Friday, December 11, 2009 2:49 PM  
**To:** Jose Larranaga  
**Cc:** witter@tidmorelawfirm.com; Jack Kolkmeier  
**Subject:** Santa Fe Mountain Center - Requested Continuance

Hello Jose,

Please let me know if you have any questions regarding the attached letter and confirm that you'll be recommending the tabling the parties have requested.

Thanks

**Joseph Karnes**  
Sommer, Karnes & Associates, LLP  
200 West Marcy Street, Suite 142  
Santa Fe, NM 87501



Harry B. Montoya  
Commissioner, District 1

Virginia Vigil  
Commissioner, District 2

Michael D. Anaya  
Commissioner, District 3



Liz Stefanics  
Commissioner, District 5

Roman Abeyta  
County Manager

RECORDER 01/22/2010

# Santa Fe County Fire Department

## Fire Prevention Division

### Official Submittal Review

Project Name Cimarron Village, Phases 1-5

Project Location US Hwy 285, Avenida Vista Grande

Commercial  Residential  Sprinklers  Wildland  Hydrant Acceptance

Description Residential and Commercial Subdivision Case Manager Joe Catanach

Applicant Name Joseph F. Miller County Case # 08-5450

Applicant Address 286 Riverbank Road Fire District Hondo / El Dorado  
Lamy, NM 87540

Applicant Phone 505-797-4120 (contractor)

Review Master Plan  Preliminary  Final  Inspection  Lot Split

Date 12/15/09

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:

#### 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.*

Curbs or signage adjacent to the building, fire hydrant, entrances and landscape medians in traffic flow areas shall be appropriately marked in red with 6" white lettering reading "FIRE LANE - NO PARKING" as determined by the Fire Marshal prior to occupancy. Assistance in details and information are available through the Fire Prevention Division.

- **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.

Roads shall meet the minimum County standards for fire apparatus access roads within this type of proposed development. Final acceptance based upon the Fire Marshal's approval.

- **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.*

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

All access roadway identification signs leading to the approved development area(s) shall be in place prior to the required fire hydrant acceptance testing. Said signs shall remain in place in visible and viable working order for the duration of the project to facilitate emergency response for the construction phase and beyond.

Properly assigned legible rural addresses shall be posted and maintained at the entrance(s) to each individual lot or building site within 72 hours of the commencement of the development process for each building.

Buildings within a commercial complex shall be assigned, post and maintain a proper and legible numbering and/or lettering systems to facilitate rapid identification for emergency responding personnel as approved by the Santa Fe County Fire Marshal.

- **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.*

The maximum approved slope of the driveway access/egress shall not exceed 11%.

- **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.*

Commercial buildings may be required to install a Knox Cabinet or applicable Knox device as determined by this office for Fire Department access, Haz-Mat/MSDS data, and pre-fire planning information and for access to fire protection control rooms (automatic fire sprinklers, fire alarm panels, etc...).

All gates on a public way shall be operable by means of a key or switch, which is located in a Knox Lock entry system, keyed to the Santa Fe County system. Details, information and forms are available from the Fire Prevention Division

A final inspection by this office will be necessary to determine the applicability of the installation of the Knox lock access system in regards to emergency entrance into the fenced area. Should it be found suitable for such, the developer shall install the system.

### **Fire Protection Systems**

#### **▪ Hydrants**

Shall comply with Article 9, Section 903 - Water Supplies and Fire Hydrants of the 1997 Uniform Fire Code, inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal.

Section 903.4.2 Required Installations. (1997 UFC) *The location, number and type of the fire hydrants connected to a water supply capable of delivering the required fire flow shall be provided on the public street or on the site of the premises or both to be protected as required and approved.*

All fire hydrants shall be spaced so that the furthest buildable portion of a parcel shall be within five hundred feet (500') as measured along the access route.

Fire hydrant locations shall be no further than 10 feet from the edge of the approved access roadways with the steamer connections facing towards the driving surface. Final placement of the fire hydrants shall be coordinated and approved by the Santa Fe County Fire Department prior to installation. Final fire hydrant locations shall be located in full view for in coming emergency responders. Landscape vegetation, utility pedestals, walls, fences, poles and the like shall not be located within a three foot radius of the hydrant per Article 10, Sections 1001.7.1 and 1001.7.2 of the 1997 UFC.

Supply lines shall be capable of delivering a minimum of 500 gpm in the residential section of the project and 1,000 gpm in the commercial portion of the project, with a 20-psi residual pressure to the attached hydrants. The design of the system shall be accordingly sized and constructed to accommodate for the associated demands placed on such a system through drafting procedures by fire apparatus while producing fire flows. The system shall accommodate the operation of two pumping apparatus simultaneously from separate locations on the system. Final design shall be approved by the Fire Marshal.

All hydrants shall have NST ports, as per the County thread boundary agreement.

No building permits shall be granted until such time as the fire hydrants have been tested and approved by the Santa Fe County Fire Marshal.

All hydrants shall comply with Santa Fe County Resolution 2000-55, Hydrant color-coding, marking and testing.

*Note: Please have the installing contractor contact this office prior to the installation of the fire hydrant, so that we may assist you in the final location placement and avoid delays in your projects' final approval.*

### **Automatic Fire Protection/Suppression**

Automatic Fire Protection Sprinkler systems shall be required as per 1997 Uniform Fire, Article 10 Section 1003.2 in accordance with the Building Code as adopted by the State of New Mexico and/or the County of Santa Fe, in all commercial buildings in this development.

Automatic Fire Protection systems shall be developed by a firm certified to perform and design such systems. Copies of sprinkler system design shall be submitted to the Fire Prevention Division for review and acceptance prior to construction. Systems will not be approved unless tested by the Santa Fe County Fire Department. Fire sprinkler systems shall meet all requirements of NFPA 13 Standard for the Installation of Sprinkler Systems.

The required system riser shall meet the requirements of the NFPA 13 1996, but not less than 3" inches.

Locations of all Fire Department Connections (FDC's) shall be determined and approved prior to the start of construction on the system. All FDC's shall have ports as per the City/County thread boundary agreement.

All sprinkler and alarm systems as required shall be tested and approved by the Santa Fe County Fire Department, prior to allowing any occupancy to take place. It shall be the responsibility of the installer and/or developer to notify the Fire Prevention Division when the system is ready for testing.

Due to the nature of the proposed live/work units and the uncertainty of the proposed occupancy usage of said structures involved, all live/work buildings shall be required to install automatic fire protection sprinkler systems meeting NFPA 13/13D or 13R standards.

Residential only dwellings within this subdivision are not required to install automatic fire protection systems as long as they are within 1,000 ft. of a pressurized hydrant, but it is highly recommended.

The requirement for fire protection sprinkler systems shall be recorded on the plat and in the covenants at the time of filing or as otherwise directed by the County Fire or Land Use Department.

The developer shall notify the water utility company supplying this project of the requirements for the installation of automatic fire suppression sprinkler system(s).

### **Fire Alarm/Notification Systems**

Automatic Fire Protection Alarm systems shall be required as per 1997 Uniform Fire Code, Article 10 Section 1007.2.1.1 and the Building Code as adopted by the State of New Mexico and/or the County of Santa Fe. Required Fire Alarm systems shall be in accordance with NFPA 72, National Fire Alarm Code, for given type of structure and/or occupancy use. Said requirements will be applied as necessary as more project information becomes available to this office during the following approval process.

All Fire Alarm systems shall be developed by a firm certified to perform and design such systems. Copies of the fire alarm system design shall be submitted to the Fire Prevention

Division for review and acceptance prior to installation. Systems will not be approved unless tested by the Santa Fe County Fire Department. Fire Alarm systems shall be in accordance with NFPA 72, National Fire Alarm Code for given type of structure and/or occupancy use.

- **Fire Extinguishers**

Article 10, Section 1002.1 General (1997 UFC) *Portable fire extinguishers shall be installed in occupancies and locations as set forth in this code and as required by the chief. Portable fire extinguishers shall be in accordance with UFC Standard 10-1.*

### **Life Safety**

Fire Protection requirements listed for this development have taken into consideration the hazard factors of potential occupancies as presented in the developer's proposed use list. Each and every individual structure of a residential, commercial or public occupancy designation will be reviewed and must meet compliance with the Santa Fe County Fire Code (1997 Uniform Fire Code and applicable NFPA standards) and the 1997 NFPA 101, Life Safety Code, which have been adopted by the State of New Mexico and/or the County of Santa Fe.

The following bulleted areas will be addressed with specific conditions in subsequent review submittals as the information becomes available.

- **Access/Egress**
- **Signage**
- **Lighting**
- **Other**

Please note that impact fees for Lot 14, Block 2 shall be paid to the Florida Volunteer Fire District. Impact fees for all other lots shall go to the Le Brouche Volunteer Fire District

### **Hazardous Materials**

The following bulleted areas will be addressed with specific conditions in subsequent review submittals or as the information becomes available prior to or upon final inspection at the time of the Certificate of Occupancy as applicable to the building(s) occupancy use.

- **Fuel/Flammable Material Storage**
- **Explosives**
- **MSDS**
- **Other**

**General Requirements/Comments**

▪ **Inspections/Acceptance Tests**

Shall comply with Article 1, Section 103.3.2 - New Construction and Alterations of the 1997 Uniform Fire Code, inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal.

The developer shall call for and submit to a final inspection by this office prior to the approval of the Certificate of Occupancy to ensure compliance to the requirements of the Santa Fe County Fire Code (1997 UFC and applicable NFPA standards) and the 1997 NFPA 101, Life Safety Code.

Prior to acceptance and upon completion of the 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 Master Development Plan approval with the above conditions applied.

**Victoria DeVargas, Inspector**

  
**Code Enforcement Official**

12/15/09  
**Date**

Through: David Sperling, Fire Marshal/Deputy Chief  
File: EastReg/DevRev/ElDorado/CimarronVillage.doc

Cy: Vicki Lucero, Land Use Office  
Joseph F. Miller, Applicant  
District Chief  
File

SFC CLERK RECORDED 01/22/2010

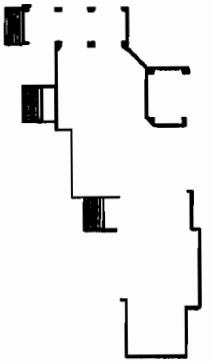




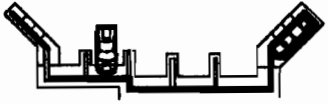




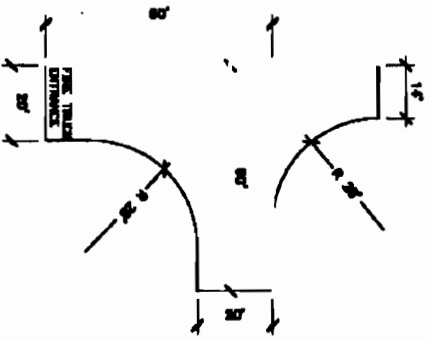
14 foot radius



PROPOSED RESIDENCE FOOTPRINT

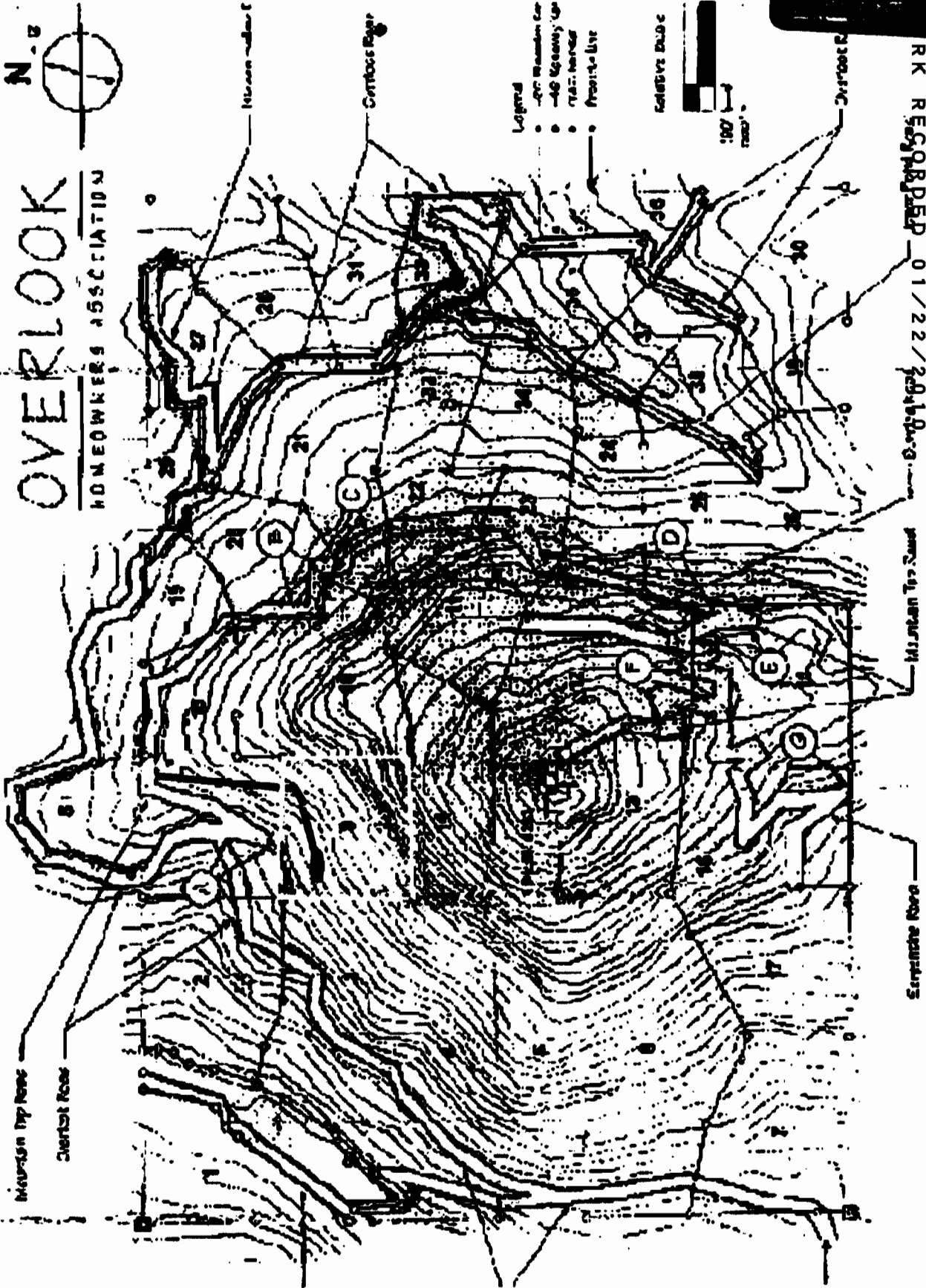


PROPOSED PARKING AREA FOOTPRINT

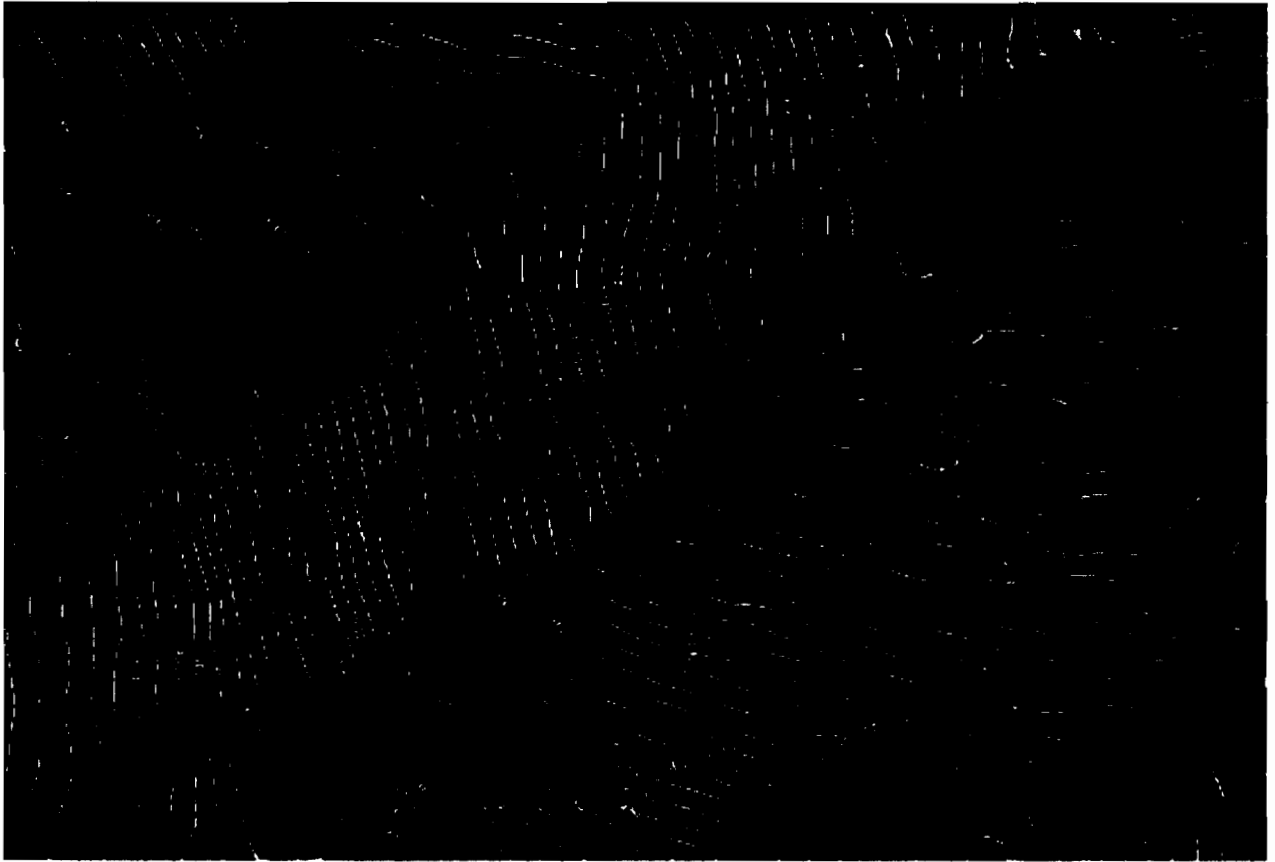


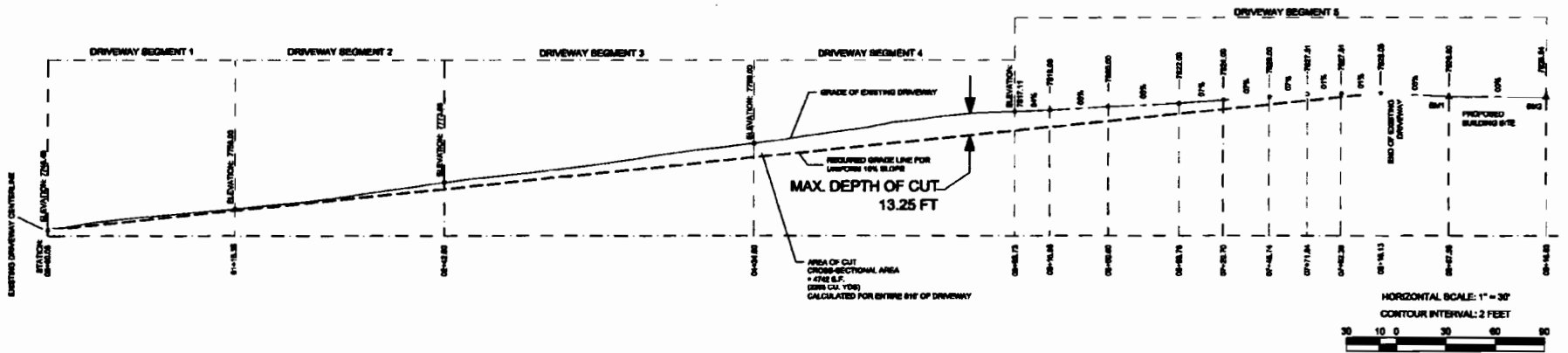
REQUIRED HAMMERHEAD FOOTPRINT

# OVERLOOK HOMEOWNERS ASSOCIATION



RK RECORDED 01/22/2016





**NOTE:**

THE ABOVE DRAWING IS INTENDED ONLY FOR REFERENCE AND TO DEMONSTRATE THE AMOUNT OF GRADING THAT WOULD BE REQUIRED TO ACHIEVE A UNIFORM 10% GRADE ALONG THE ENTIRE EXISTING 816' DRIVEWAY ACROSS TRACT 8 AND 9 OF THE OVERLOOK SUBDIVISION. THE APPLICANTS ARE NOT PROPOSING THE GRADING SHOWN.

**NOTE:**

TO OBTAIN UNIFORM 10% GRADE ALONG ENTIRE LENGTH OF 816' DRIVEWAY THE FOLLOWING WOULD BE REQUIRED:

CUTTING ALONG ENTIRE LENGTH OF DRIVEWAY

MAXIMUM CUT DEPTH OF 13.25' FROM EXISTING DRIVEWAY GRADE

REMOVAL OF 2283 CUBIC YARDS OF EARTH (OR APPROX. 507 TANDEM AXLE TRUCK LOADS)

$(4742 \text{ S.F. CUT CROSS SECTION}) \times (13' \text{ ROAD WIDTH}) = 61,846 \text{ C.F.}$   
 $(61,846 \text{ C.F.}) / 27 \text{ (C.F. / YRD.)} = 2283 \text{ CUBIC YRDS.}$   
 $(2283 \text{ CUBIC YRDS.}) \times 2 \text{ (VOLUME AFTER EXCAVATION)} = 4,566 \text{ CUBIC YRDS.}$   
 $(4,566 \text{ CUBIC YARDS}) / 9 \text{ (YRDS PER TRUCK)} = \text{APPROX. } 507 \text{ TRUCK LOADS}$

OVERALL RESULTING CUTS FROM NEW AND ORIGINAL GRADING (CARRIED OUT BY PREVIOUS OWNERS) WOULD TOTAL APPROXIMATELY 18.25' (EXISTING AVERAGE CUTS OF 5' + (PLUS ADDED MAX. CUT OF 13.25' FOR 10% GRADE) = 18.25'



**General Requirements/Comments**

▪ **Inspections/Acceptance Tests**

Shall comply with Article 1, Section 103.3.2 - New Construction and Alterations of the 1997 Uniform Fire Code, inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal.

The developer shall call for and submit to a final inspection by this office prior to the approval of the Certificate of Occupancy to ensure compliance to the requirements of the Santa Fe County Fire Code (1997 UFC and applicable NFPA standards) and the 1997 NFPA 101, Life Safety Code.

Prior to acceptance and upon completion of the 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 Master Development Plan approval with the above conditions applied.

**Victoria DeVargas, Inspector**

  
**Code Enforcement Official**

12/15/09  
**Date**

Through: David Sperling, Fire Marshal/Deputy Chief

File: EastReg/DevRev/EIDorado/CimarronVillage.doc

Cy: Vicki Lucero, Land Use Office  
Joseph F. Miller, Applicant  
District Chief  
File





1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

AN ACT

RELATING TO PROPERTY LAW; AMENDING THE DEFINITION OF "SOLAR COLLECTOR" IN THE SOLAR RIGHTS ACT; INVALIDATING RESTRICTIONS ON THE INSTALLATION OR USE OF SOLAR COLLECTORS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 3, Article 18 NMSA 1978 is enacted to read:

"LIMITATION OF COUNTY AND MUNICIPAL RESTRICTIONS ON SOLAR COLLECTORS.--

A. A county or municipality shall not restrict the installation of a solar collector as defined pursuant to the Solar Rights Act, except that placement of solar collectors in historic districts may be regulated or restricted by a county or municipality.

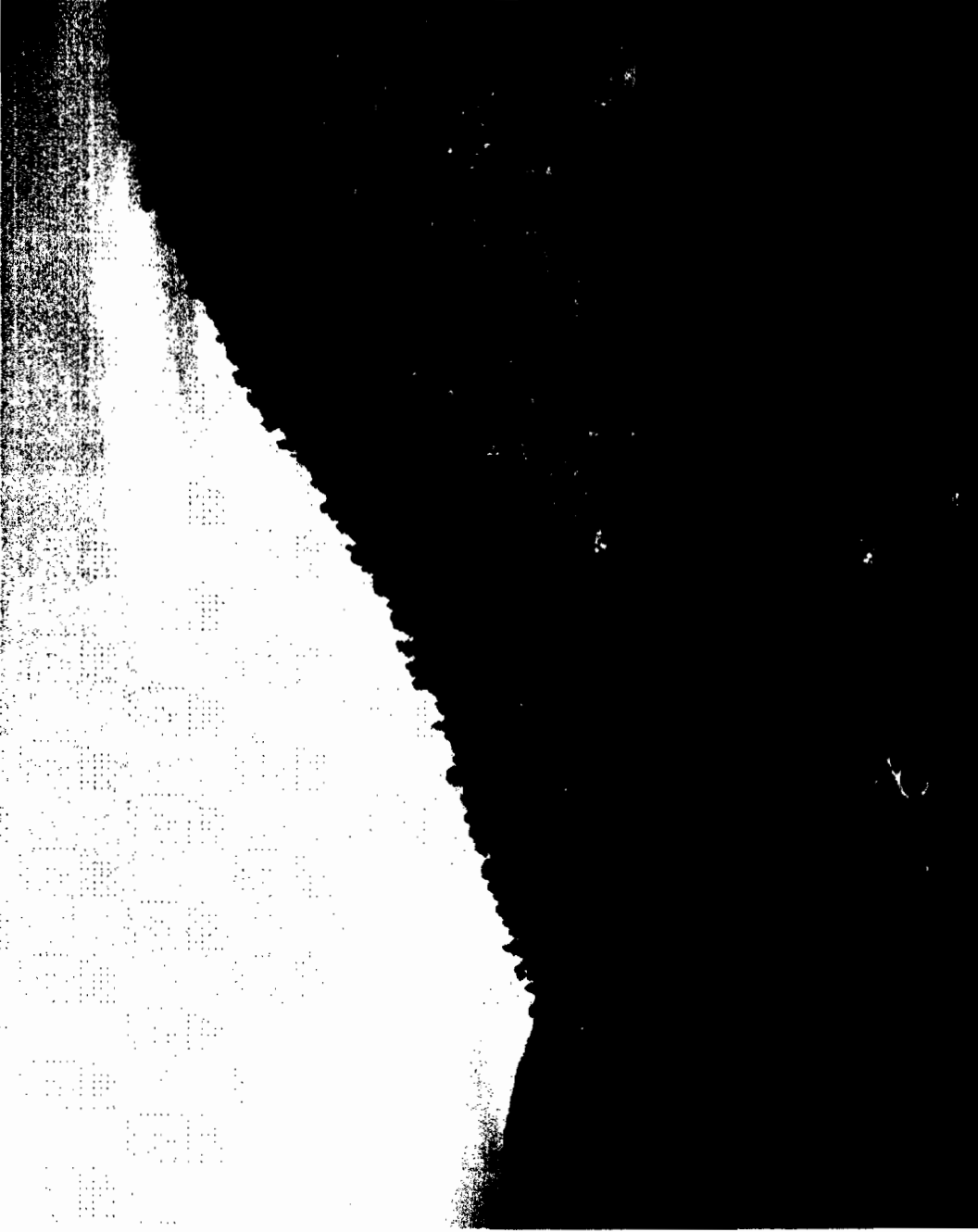
B. A covenant, restriction or condition contained in a deed, contract, security agreement or other instrument, effective after July 1, 1978, affecting the transfer, sale or use of, or an interest in, real property that effectively prohibits the installation or use of a solar collector is void and unenforceable."

Section 2. Section 47-3-1 NMSA 1978 (being Laws 1977, Chapter 169, Section 1) is amended to read:

"47-3-1. SHORT TITLE.--Sections 47-3-1 through 47-3-5 NMSA 1978 may be cited as the "Solar Rights Act"."

**Blue and yellow ellipses are neighboring properties.**

**Red ellipse is area of proposed dwelling.**





1 Section 3. Section 47-3-3 MMSA 1978 (being Laws 1977,  
2 Chapter 169, Section 3) is amended to read:

3 "47-3-3. DEFINITIONS.--As used in the Solar Rights Act:

4 A. "solar collector" means a device, substance or  
5 element, or a combination of devices, substances or elements,  
6 that relies upon sunshine as an energy source and that is  
7 capable of collecting not less than twenty-five thousand  
8 British thermal units on a clear winter solstice day or that  
9 is used for the conveyance of light to the interior of a  
10 building. The term also includes any device, substance or  
11 element that collects solar energy for use in:

12 (1) the heating or cooling of a structure or  
13 building;

14 (2) the heating or pumping of water;

15 (3) industrial, commercial or agricultural  
16 processes; or

17 (4) the generation of electricity.

18 A solar collector may be used for purposes in addition  
19 to the collection of solar energy. These uses include, but  
20 are not limited to, serving as a structural member or part of  
21 a roof of a building or structure and serving as a window or  
22 wall; and

23 B. "solar right" means a right to an unobstructed  
24 line-of-sight path from a solar collector to the sun, which  
25 permits radiation from the sun to impinge directly on the

SB 1031

1 solar collector."

2

SB 1031  
Page 3

SFC CLERK RECORDED 01/22/2010