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Deputy County Clerk, Santa Fe, N

MINUTES OF THE

SANTA FE COUNTY

DEVELOPMENT REVIEW COMMITTEE

Santa Fe, New Mexico

July 19, 2012

This meeting of the Santa Fe County Development Review Committee (CDRC) was called to order by Maria DeAnda, 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:

Maria DeAnda, Chair
Juan José Gonzales, Vice Chair
Phil Anaya [late arrival]
Dan Drobnis
Frank Katz
Susan Martin [telephonically]
Sef Valdez

Member(s) Excused:

[None]

Staff Present:

Wayne Dalton, Planning Division Supervisor
Vicki Lucero, Development Review Specialist
Rachel Brown, Deputy County Attorney
Buster Patty, Fire Department

IV. APPROVAL OF AGENDA

Ms. Lucero noted that the third case under New Business, the Shapiro Variance, is tabled. She pointed out that the Garcia Variance under Old Business is scheduled for a vote only and the presence of all seven members is required. She added Member Anaya will be arriving later and it was agreed to defer that item until his arrival.

Upon motion by Member Gonzales and second by Member Katz, the agenda was unanimously [6-0] approved as amended. [Member Anaya was not present for this action.]

V. APPROVAL OF MINUTES: June 21, 2012

Chair DeAnda moved to approve the June minutes as submitted. Member Katz seconded and the motion passed by unanimous [5-0] voice vote with Member Martin abstaining and Member Anaya not present.

VI. CONSENT FINAL ORDERS

- A. CDRC CASE # MIS 12-5190 Kevin Hart Accessory Structure. Kevin Hart, Applicant, Requested Approval for a 3,750 Square Foot Accessory Structure to Be Utilized for Personal Storage on 2.5 Acres. The Property is Located at 17 Los Cielos Lane, in the Vicinity of La Cienega, within Section 27, Township 16 North, Range 8 East, (Commission District 3). Approved 6-0, Wayne Dalton

Member Katz moved to approve and Chair DeAnda seconded. The motion passed by unanimous [6-0] voice vote. [Member Anaya was not present for this action.]

- B. CDRC CASE # MIS 12-5170 Eisenstein Height of Radio Antenna. Robert Eisenstein, Applicant, Requested Approval of a Non-Commercial Radio Antenna, to Be Constructed 43 Feet in Height, to Be Utilized for an Amateur Radio Station on 2.76 Acres. The Property is Located at 115 East Sunrise Drive, within Section 8, Township 17 North, Range 9 East, (Commission District 2). Approved 6-0, Jose E. Larrañaga, Case Manager

Member Drobnis moved to adopt the findings of fact and Member Gonzales seconded. The motion passed by unanimous [6-0] voice vote. [Member Anaya was not present for this action.]

VII. OLD BUSINESS

- A. CDRC CASE # V 12-5130 Joseph & Anna Garcia Variance.

This case was deferred pending the arrival of Member Anaya. [See page 7.]

VIII. NEW BUSINESS

- A. CDRC CASE # V 12-5160 Timothy Armijo Variance. Timothy Armijo, Applicant, Requests a Variance of Article III, Section 2.4.1a.2.b (Access) of the Land Development Code and a Variance of Article 4, Section 4.2 of Ordinance No. 2008-10 (Flood Damage and Storm water Management) to Allow a Family Transfer Land Division of 2.26 Acres Into Two 1.13 Acre Lots. The Property is Located at 19 Calle San Ysidro, in the Vicinity of La Puebla, within Section 18, Township 20 North, Range 9 East, (Commission District 1)

Mr. Dalton read the caption and gave the following staff report:

“The Applicant requests a variance to allow a Family Transfer Land Division of 2.26 acres into two 1.13-acre lots. Access to the proposed lots would be by the use of Calle San Ysidro, a dirt road crossing a FEMA designated Special Flood Hazard Area, via an existing concrete low water crossing which may be frequently impassible during inclement weather, and thereby is not all weather accessible.

“The property is located in the Traditional Community of Arroyo Seco, and the lot size per code is 0.75 acres per dwelling unit. This proposal meets the minimum lot size criterion.”

Mr. Dalton said due to a previous decision by the Board of County Commissioners for approval of a family transfer land division which accessed the same low water crossing and a proposed amendment to Ordinance No. 2008-10 which would not require all weather access to properties, staff recommends approval of a variance from Article III, § 2.4.1a.2.b (Access) of the Land Development Code and approval of a variance of Article 4, § 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management) subject to the following conditions.

1. Water use shall be restricted to 1 acre-foot per year per lot. A water meter shall be installed for each lot. 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. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval (As per Article III, § 2.4.2).
3. The Applicant shall comply with all Fire Prevention Division requirements at time of Plat review (As per 1997 Fire Code and 1997 Life Safety Code).
4. Further division of ether tract is prohibited, this shall be noted on the Plat (As per Article III, § 10).
5. A note must be placed on the Plat regarding the lack of all weather access to the subject lots. This note shall include language as follows: The access to this property does not meet minimum standards set forth by County Ordinance and Code. Site Access, including access by Emergency vehicles, may not be possible at all times (As per Ordinance 2008-10).

Member Gonzales asked for clarification of the BCC’s action on the previous case. Mr. Dalton explained that when that case came before the CDRC it was recommended for denial. The BCC overturned that recommendation. Member Gonzales asked about the plat note and asked about possible ramifications. Mr. Dalton stated the intent is to let potential buyers know the road is impassible in inclement weather.

Member Gonzales asked about the negative recommendations from the Fire Marshal and the Flood Plain Administrator. Mr. Dalton said their recommendations were

based on the code. He added the previous ordinance is slated for amendment since FEMA does not require all-weather access.

Member Katz asked what stage the planned amendment was in and Mr. Dalton said it was in preliminary stages.

Member Drobnis asked if FEMA had changed their requirements and Mr. Dalton replied they have not; the County requirements were traditionally more stringent and they are attempting to bring them in line.

Duly sworn, Timothy Armijo stated he is agreement with the conditions and wants to split the property for his kids.

Speaking for the Fire Department Captain Buster Patty explained the requirement for an all-weather crossing is not a FEMA requirement; it is a requirement of the 1997 Uniform Fire Code, as adopted by the BCC. If the proposal is approved the Fire Department can make additional recommendations, principally in this case residential sprinklering and a turnaround. Mr. Armijo has agreed to these recommendations.

Member Gonzales said his concern had to do with who has liability.

Member Drobnis asked if the provisions recommended were more stringent than in the previous case. Captain Patty said it is the same road. If the properties are separated by more than 150 feet there has to be an additional turnaround. Member Drobnis sought confirmation that following the anticipated amendment the code would be in conflict with the Uniform Fire Code. Mr. Dalton said that was the case, as is true in many other instances.

There was no one from the public wishing to speak.

Chair DeAnda moved to approve CDRC Case #V 12-5160 with staff conditions. Member Valdez seconded and the motion passed by unanimous [6-0] voice vote. [Member Anaya was not present for this action.]

VIII. B. CDRC CASE # V 12-5150 Victor & Patsy Roybal Land Division/Variance. Victor & Patsy Roybal, Applicant's, Request Approval for a Land Division of 1.56 Acres into Two Lots. This Request Also Includes a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow Two Dwelling Units on the Proposed 0.80 Acre Lot. The Property is Located at 38 La Joya Road, in the vicinity of Glorieta, within Section 2, Township 15 North, Range 11 East, Commission District 4

Mr. Dalton gave the following staff report:

“The Applicants request approval of a Land Division of 1.56 acres. This request also includes a variance of Article III, § 10. In 1986, the property was divided through Warranty Deed which is not the correct process for creating lots. Staff recognizes this property as a single legal lot of record. There are currently three dwelling units, multiple sheds and a carport on the property.

“The mobile home, which is occupied by the Applicant’s daughter, proposed Tract 1-B, was permitted on March 3, 2004. At that time, a site plan and a Plat of Survey were submitted indicating a 1.6-acre parcel with an existing residence, and being that the property is located within the Traditional Community two homes were permitted. No record of permits have been found by staff for the other existing residence on the proposed Tract 1-B or for the existing residence on the proposed Tract 1-A.

“The Applicants state the second home is needed for their daughter who currently resides in the home. The Applicants’ daughter provides care and assistance for her mother who suffers from multiple medical conditions.

“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.”

Mr. Dalton stated staff was recommending denial of a variance from Article III, §10 (Lot Size Requirements) of the Land Development Code. Staff also recommends the second home be removed from the proposed Tract 1-B in order to process the Land Division Application administratively. If the decision of the CDRC is to recommend approval of the Applicants request for a variance, staff recommends imposition of the following conditions:

1. Water use shall be restricted to 1 acre-foot per year per lot. A water meter shall be installed for each lot. 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.
2. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval (As per Article III, § 2.4.2.)
3. The Applicants 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 Applicant must provide proof of permits or proof that the structures on the property are legal non-conforming. If the Applicant cannot provide proof that the structures are legal, than the Applicant must obtain After the Fact development permits (As per As per Article II, § 4.5.2b Article II, § 2).
5. The placement of additional dwelling units or Division of land is prohibited on the property (As Per Article III, Section 10).
6. The Applicants shall comply with all Fire Prevention Division requirements at time of Plat review (As per 1997 Fire Code and 1997 Life Safety Code).

Member Katz asked for clarification of the recommendation to remove the second home and apply administratively. Mr. Dalton stated the application meets the density requirements since it is in the traditional community, however, Tract 1-B currently has two homes which brings it over maximum density. Were that not there the application could be processed administratively. The applicants are requesting a variance to allow the second home on that lot to remain.

Applicants Victor and Patsy Roybal were placed under oath. Ms. Roybal indicated when they put in the septic for her daughter's home they thought everything was legal. Mr. Roybal apologized for not getting the proper permits.

Mr. Dalton gave a history of the property, pointing out that Tract 1-A is owned by another owner. Although both owners were paying separate taxes, the warranty was not sufficient to legally split the original 1.56 acres.

[Member Anaya joined the meeting.]

Member Valdez asked when the house was built and Mr. Roybal said sometime in the 1970s.

Member Drobnis asked about the non-conformance. Mr. Dalton said if the variance is received it would be deemed non-conforming. The mobile home has a permit but there is no record of a permit for the original home.

Ms. Roybal stated their neighbor has recently died and they are trying to purchase that property, demolish the structures currently there and move their daughter's mobile home to that property. Mr. Dalton noted there was no guarantee this would occur, or when it would occur.

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

Member Valdez moved to approve CDRC Case #V 12-5150 with conditions, including a condition that proof be provided of the original house's pre-1981 provenance. Mr. Dalton pointed out this was covered by condition #4. Member Gonzales seconded and the motion carried by 4-2 vote with members Drobnis, Gonzalez, Katz and Valdez voting in favor, Members Martin and DeAnda voting against, and Member Anaya abstaining.

Chair DeAnda advised the Roybals that the case would go before the BCC.

- VII. A. **CDRC CASE # V 12-5130 Joseph & Anna Garcia Variance. Joseph & Anna Garcia, Applicants, Request a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow a Small Lot Family Transfer Land Division of 2.5 Acres Into Two Lots. The Property is Located at 3 Avenida Pita, within Section 10, Township 15 North, Range 10 East, Commission District 4 (VOTE AND DELIBERATION ONLY)**

Mr. Dalton stated: "On June 21, 2012, the CDRC met and acted on this case. The decision of the CDRC was tied at three votes to approve and three votes to deny. Under Commission Rules of Order the Application is automatically tabled until the next meeting. This case is now coming before the CDRC for deliberation and vote only.

Upon taking the vote, members Anaya, Gonzales, Valdez and Chair DeAnda voted in favor of approval and members Drobnis, Katz and Martin against.

- VIII. C. **CDRC CASE # V 12-5060 Jay Shapiro Variance. Jay Shapiro, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow Two Dwelling Units on 10.21 Acres. The Property is Located at 94 Cloudstone Drive, within Section 5, Township 16 North, Range 10 East, (Commission District 4). Vicki Lucero, Case Manager. (TABLED)**
- VIII. D. **CDRC CASE # V 12-5250 Carla Cavalier Variance. Carla Cavalier, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow a Family Transfer Land Division of 25 Acres into Three 8.30 Acre Lots. The Property is Located at 25 Sandoval Lane, in the Vicinity of Edgewood, within Section 11, Township 11 North, Range 7 East, (Commission District 3)**

The staff report was read by Mr. Dalton as follows:

"There are currently two dwelling units, a garage and workshop on the property. The Applicant's sister resides in one dwelling and the other is vacant. The Applicant intends to divide the property into three tracts, one tract would have two dwelling units and the other two tracts would be vacant. If this Application is approved, the vacant dwelling will have to be removed from Tract 3. Staff can find no evidence of permits for the two dwelling units, garage or workshop.

"The Applicant states her father has owned the property since 1978, and now would like to divide the property equally between his three children in order to provide them with their own parcel of land.

“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.”

Mr. Dalton indicated staff was recommending denial of a variance from Article III, §10 (Lot Size Requirements) 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 0.25 acre feet per year per lot. A water meter shall be installed for each lot. 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. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval.
3. ~~The placement of additional dwelling units or Division of land is prohibited on the property (As Per Article III, § 10).~~ Further division of each tract is prohibited. This shall be noted on the plat. Only one dwelling unit shall be permitted on each lot as per Article III, § 10. [Modified at staff report.]
4. The Applicant must provide proof of permits or proof that the structures on the property are legal non-conforming. If the Applicant cannot provide proof that the structures are legal, than the Applicant must obtain after-the-fact development permits (As per As per Article II, § 4.5.2b Article II, § 2).
5. The Applicant shall comply with all Fire Prevention Division requirements at time of Plat review.(As per 1997 Fire Code and NFPA Life Safety Code).

Member Katz noted the underlying lot size in this part of the county is 160 acres, reducible to 40 acres with water restrictions. He asked if it was possible to reduce the acreage further via family transfer. Mr. Dalton said a lot could be reduced to 20 acres through small-lot family transfer.

Under oath, Carmen Cavalier stated her father was having health problems. The property has been in the family for 49 years, and passed down through generations. She agreed to all conditions including removal of the mobile home. She said there are three daughters and dividing it into three would be the most equitable solution while keeping the land in the family. Currently one of the daughters lives on the property.

Member Katz asked if there was a compelling reason for not following the County’s rules, which are in place for a reason. Ms. Cavalier said the property has been in the family so long and all of the daughters want a piece of it. She explained her grandfather divided his original 60 acres between children. She understood further divisions were not possible.

Noting the basis of hydrologic zoning is water availability, Member Gonzales asked what basin the property was in. Mr. Dalton said they were in the Homestead Zone

and if a geohydro test proved a 100-year water supply the lots could go down to 2.5 acres. He said that is an option the applicant is aware of but that is costly.

Ms. Cavalier said they don't have any intent of going to smaller lots than requested. In response to questions from Member Gonzales she said the well was 400 feet deep and she was not sure what the production capability was. It was probably drilled in 1988 when her father moved onto the property. He inherited the land in 1978 and split off five acres.

Member Anaya stated he is familiar with the area, the Estancia Basin, which has plenty of water for dwellings. He noted many people are opposed to the 40-acre minimum and changes could be in the offing since it is not far from the Town of Edgewood. He said he has property in the area that he will eventually want to give to his daughters.

Chair DeAnda expressed her concern that there did not appear to be any kind of extraordinary hardship. She mentioned that the lot is already below the minimum lot size with water restrictions, i.e., 40 acres. She said they have the alternative of having a geohydro report.

There was no one from the public wishing to speak.

Chair DeAnda moved to deny the variance request in CDRC Case # V 12-5250. Member Katz seconded.

Member Katz stated the applicant had mentioned that the request may be premature, and there may be changes coming that would facilitate the process in the future.

The motion to deny the request carried by majority 4-3 vote, with Members Katz, Drobnis, Martin and DeAnda voting in favor of denial and Members Anaya, Gonzales and Valdez voting against.

Chair DeAnda advised Ms. Cavalier that this was a recommendation and the case would go before the Board of County Commissioners.

**VIII. E. CDRC CASE # APP 12-5110 William Frederick Wagner Appeal.
William Frederick Wagner, Applicant, (Sommer, Karnes & Associates, LLP), Joseph Karnes, Agent, Request 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**

Mr. Dalton gave the staff report as follows:

“The Applicant requests 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. The Applicant states Ordinance No. 2009-01 expressly repealed Ordinance No. 1997-4 Extraterritorial Zoning Ordinance (EZO) except for Section 9.8 (Mountain Special Review District). Thus the only operative provisions of the EZO are those set forth in Section 9.8 and all other provisions of the EZO are no longer in effect.

“Staff response: Ordinance No. 2009-01 did in fact repeal Ordinance No. 1997-4 (EZO) with the exception of Section 9.8 (MSRD). However all cross references of Section 9.8 still apply and govern this Application.

“The Applicant states Section 9.8.C.1.c.3 states that lots created through the Inheritance and Family Transfer provisions shall have a minimum area of 10 acres. The only operative regulation relating to Family Transfers is the County Land Development Code Article II, § 2.3.1.a.ii.h This section requires only that Family Transfers involve a gift to an immediate family member.

“Staff response: The Land Development Code does not apply to this Application. Section 9.8.C.1.c.3 of the EZO states each lot created from the subdivision or land division shall have an area of at least 20 acres except for lots created through Inheritance and Family Transfer provision which shall have a minimum area of ten acres. A Family Transfer as defined within the EZO is a gift of land transferred by father or mother to their children, natural or adopted, or grandchildren; or transferred by a person who as legal guardian has performed the function of father, mother, grandfather, or grandmother to an individual to whom the land is being transferred.

“The Applicant further states the applicable definition of a Family Transfer is set forth in Article X, § 1.54, which defines a Family Transfer as ‘the division of land to create a parcel that is sold or donated as a gift to an immediate family member (as defined herein); however this exception shall be limited to allow the seller or donor to give no more than one parcel per tract of land per immediate family member.’ An ‘immediate family member’ includes a husband and wife.

“Staff response: The Land Development Code does not apply to this case based on Ordinance 2009-01. The definitions set forth in the EZO apply to this case. A Family Transfer as defined within the EZO is a gift of land transferred by father or mother to their children, natural or adopted, or grandchildren; or transferred by a person who as legal guardian has performed the function of father, mother, grandfather, or grandmother to an individual to whom the land is being transferred.

“The Applicant states in this case, that he is proposing a gift to his wife. The Applicant further states due to the Application complying with all applicable

Sections of the operative Code, the Application must be approved and there is no discretion or basis on which to deny the Application.

“Staff response: This Application does not comply with applicable Sections of the operative Code. For the purpose of Family Transfers ‘family proper’ means lineal relations up to an including the third degree, i.e., Grandparent, Parent, Child. Relationships of the half blood shall count the same as relationships of the whole blood and step relationships shall count as natural relationships so long as the step relationship is legally extant at the time of the transfer. This Application meets density requirements for the purpose of a Family Transfer; however, the Applicant intends to transfer property to his wife which does not meet criteria set forth within the EZO.”

Mr. Dalton gave the staff recommendation as follows: Staff recommends that the CDRC uphold the Land Use Administrator’s decision to deny the Application and deny the requested appeal.

Noting the EZO covered land within a certain distance of the city, Member Katz asked if this land was within that distance. Mr. Dalton confirmed that it was, and that it was not in an area proposed for annexation.

Chair DeAnda indicated it appeared the only question was that of the definition of “family proper.”

Calling upon Deputy County Attorney Brown, Member Gonzales asked for clarification of the issue at hand.

Ms. Brown said it is a matter of statutory interpretation as opposed to research. The Legal Department determined that when a provision of a repealed ordinance is preserved the relevant definitions within that ordinance are retained. Within the section preserved is the term “family transfer.” Within the ordinance that was repealed the definition did not include transfer between spouses. She stated, the appellant is arguing that the definitions within the Land Use Code govern this transaction despite the preservation of the section within the repealed ordinance.

Chair DeAnda asked staff where the statement “all cross-references of the Section 9.8 still apply and govern this application” came from, and was it in fact interpretation. Mr. Dalton said it was interpretation following discussions between Legal and Land Use staff.

Member Drobis said he would be interested to hear from the attorneys present regarding case law on definitions in repealed statutes.

Member Katz asked what Section 9.8 does and why was it not repealed with the rest of the EZO.

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Ms. Brown stated it preserves the acreage restriction on family transfers which differ from other parts of the Land Use Code. Its application is limited to the Mountain Special Review District (MSRD), an overlay district entirely within the extraterritorial zone.

Appearing for the Wagners was legal counsel Karl Sommer. He stated the issue boils down to staff's interpretation, which he said was wrong. This division, under the repealed EZO meets all criteria with regard to density and location, as well as meeting the criteria in the Land Development Code. The only issue is the transfer between a husband and wife. He said staff does not apply other definitions in the section, and staff initially did not make this distinction. The MSRD refers to many definitions, including the term "subdivision." Additionally, staff does not apply the EZO subdivision regulations or terrain management regulations; these have been repealed. "The interpretation that is being given to this application is not the same interpretation or application given to other applications in this area." The County's subdivision regulations are now applied because the definitions were repealed along with the rest of the ordinance.

Mr. Sommer stated this should be interpreted the same way they interpret everything else, including the subdivision and terrain management regulations. He asked if there as a policy issue involved and he answered there was not. The MSRD and the County code allow a division of this size.

Turning to Member Drobnis' question Mr. Sommer stated he has found no case law in New Mexico regarding the effect of a repeal. In general, repeal of an ordinance terminates its force and effectiveness, whereupon the general law of the state fills the vacuum, or in this case, other applicable laws, to wit, County code. He agreed that the issue turns on statutory interpretation and its application. He asked that staff be consistent and apply the provisions uniformly.

Mr. Sommer stated there is no attempt on the part of the Wagners to circumvent onerous provisions such as density restrictions, water requirements or terrain management regulations. Opposition by the neighbors does not change the situation.

Member Katz asked if the MSRD had different terrain management regulations. Mr. Sommer said it incorporated the terrain management regulations of the EZO. Some of its terrain management rules were more strict, such as ridgetop restrictions.

Member Katz asked if those issues had arisen and Mr. Sommer said he did not know. His understanding of the intent of the MSRD was to preserve density restrictions and view corridors. He believed they were still applying the siting requirements.

Stating his understanding of family transfers was that the intent was for parents to give property to their children, Member Gonzales asked the purpose of transferring property from a husband to a wife. Mr. Sommer said the purpose was to preserve the assets among the family without tax consequences. The EZO essentially penalized children tax-wise.

Mr. Sommer cited the Kirkpatrick case, a property near the property under discussion but outside the MSRD. In that case the court held a transfer from husband to wife was legitimate under the code.

Member Gonzales asked for specifics on the deed: "Is it sole and separate property or community property?" Mr. Sommer did not know. A member of the audience said it was purchased before the marriage.

Mr. Dalton stated the property was purchased in 2004 by William Frederick Wagner, a single person.

Member Gonzales asked if there was a way to split this process without going through a family transfer and Mr. Dalton said there was not, since the minimum lot size is 20 acres.

Member Anaya asked why the property did not become community property immediately upon the marriage. Mr. Sommer said that does not occur automatically.

Chair DeAnda asked what definition of family transfer staff would apply outside the MSRD. Mr. Dalton indicated the Land Use Code would be applied and a transfer between husband and wife would not be allowed; a variance to the family proper definition would have to be requested.

Brian Egoff, counsel for the neighbors, said there are two definitions of family in the County's laws. In the Land Use Code there is a definition that includes husband and wife and there is one that specifies only lineal. The new code includes nieces, nephews, husbands and wives. However, the old definition still applies to this transfer. He said there had to have been a reason Section 9.8 was purposely maintained while surrounding provisions were stripped, and the logical conclusion is that definitions are retained. Otherwise the section does not make any sense.

According to Mr. Egoff, the MSRD provisions addressed serious issues having to do with water and extreme fire danger. The background policies were laid out. He said subdivision regulations don't apply in this case because it is not an application for a subdivision, and he doubted it was even possible to apply for a subdivision at this point under the old regulations.

Referring to the Kirkpatrick case, Mr. Egoff said the only criteria not met, in the view of the BCC was the intent of family transfer provisions. The court maintained "as long as you can tick the boxes" the transfer can go through. He said the Kirkpatrick case had no weight in this application.

Mr. Egoff distributed a letter [*Exhibit 2: Hondo Fire District Chief Letter*] and referred to page 3, which characterizes the MSRD as the only area of the county having extreme fire danger. The letter from the Hondo Fire District Chief cites problems with the narrow road, inadequate turn radii, extreme slopes.

Summing up, Mr. Egoff said, "If the applicant's view is correct that the new definition applies in the old zone, you are forcing yourselves to ignore the wishes of the

County Commissioners that chose to preserve this section of the ordinance in the past.” Without the definition under discussion there would be no reason to preserve this section.

Member Anaya asked how many people Mr. Egoff was representing and he responded around 14 homeowners, every owner along the road apart from the applicant. He stated he was hired by the members of a road maintenance agreement in the area; the applicant is the only landowner in the area who has refused to pay assessed dues for road maintenance.

Member Katz expressed his confusion regarding the terms “old code” and “new code.” Mr. Egoff stated he should have distinguished between the one that existed and the one newly enacted.

Ms. Brown stated the current operative law is the Land Use Code enacted in 1996, with the addition of the MSRD, that was preserved when the EZO was repealed.

Mr. Egoff said the only thing that makes the preserved section different from the generally applicable Land Use Code are the definitions.

Member Katz asked what other definitions apply. Mr. Egoff said he did not know and he did not see it as relevant to the case.

Area resident Jay Shelton, under oath, said he agreed with Mr. Egoff and expressed his concerns about the fire safety. There is only one road in and out. Higher density exacerbates the problem.

The chair called upon Captain Buster Patty for clarification. Captain Patty said there is a legal lot of record there and approval was given with conditions. It is an extreme wildland area. Improvements are being made to the road, but it is still not up to standard. On the applicant’s site all requirements would have to be met if they intend to build on the two designated building sites, such as road widths, turnarounds, and sprinklering before they could get building permits. He stressed it was a difficult road and area.

Member Drobnis asked if the letter from District Chief Chilton [*Exhibit 2*] accurately described conditions in the area and Captain Patty said it does.

Mr. Sommer asked if the speakers could specify where they live vis-à-vis this lot and the size of their lot.

Mr. Shelton said he lives on a five-acre lot abutting the lot in question to the east. He also owns with his brother a 20-acre lot abutting the property on the west.

Previously sworn, Melissa Peterson stated she has a 24-acre lot that abuts the Wagner property on the west. She stated the committee would have to “stretch” to make a positive decision on this case and she heard no facts that would cause them to want to throw out the definitions. She said it was a community property issue and there are other

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ways to share the wealth without doing a lot split. She agreed the fire danger is terrible and was advised by the Fire Department that in the event of an emergency she should walk out over the ridge rather than getting on the road. She said these are absentee landowners who want to make a transfer in anticipation of making money, but this is not a compelling reason for the CDRC to grant the family transfer.

Catherine Joyce-Coll, under oath, stated she lives on 10 acres not directly abutting the Wagner property. She emphasized the fire danger and lack of water. The area is around 8,000 feet and the canyon adjoins very steep Forest Service land. She said a previous fire chief, Jed Dean, said if there was a fire there would be a huge loss of property. Water is miles away. The Wagner lot could reasonably have one house but additional traffic would be "insane." The area residents work hard to maintain and improve the road. She said this exploits the law allowing family transfers, which was intended to help traditional New Mexicans to keep their families together.

Member Katz asked if Mr. Wagner had any lineal relations. Ms. Joyce-Coll said he has no children; beyond that she did not know.

Deborah Dasburg-Park, previously sworn, said she is a trustee of the Dasburg Family Trust which owns about 75 acres on La Barberia Trail, directly east of the Wagner land. She agreed with the other neighbors, adding she and the renters on the property do what they can to mitigate fire danger.

A discussion ensued that established the trust was set up in 1983. There were originally 70 acres: five acres went to the Sheltons, a 9.2-acre parcel has a dwelling and the remaining parcel is vacant.

Responding to a question by Member Katz, Mr. Sommer described the Kirkpatrick case as a couple owning a large piece of property just south of the property under discussion. They divided the land into 10-acre parcels and the husband deeded various parcels to the wife. The County Commission said the family transfer criteria were met but they did not like the transfer between husband and wife, and approval was denied. Upon appeal the courts reversed that decision.

Mr. Egoff said the case occurred in 2009 and said the County could not deny cases solely on the basis of failure to comply with publicly stated policy purposes. There was no discussion of definitions or density requirements.

Ms. Brown pointed out that case was not in the MSRDR.

Mr. Sommer reiterated there was no relevant New Mexico case law.

In summation, Mr. Sommer said a great deal of motivation has been ascribed to his client, but that is irrelevant. He mentioned the terms "subdivision" and "land division" did not carry over after the repeal of the EZO. He said the family transfer provision applied all over the EZO; not just in the MSRDR and the family definition therein is being grafted back in and other terms are not. What is important in the MSRDR

are siting, terrain management and density. Family transfers did not figure in the motivation behind institution of the MSRD. "It was people saying they didn't want to see houses on the ridgetop. It was people saying they didn't want densities of five acres. It was people saying that they wanted to deal with terrain management issues and subdivision issues, not family transfer issues." He said the Wagners could make this transfer anywhere else in the county. "If you're going to say that the definition for family transfer applies, then all the definitions referred to apply, and that doesn't make any sense at all."

Member Katz asked if there were provisions in the EZO and the MSRD related to how subdivisions were to be done, and Mr. Sommer said there were in the EZO, adding, "There were particular subdivision regulation referenced in the MSRD. The term subdivision, which is a defined term, is specifically referred to in the MSRD as how they deal with it in the MSRD." He was not sure if it was treated differently.

[The Committee recessed from 6:23 to 6:35.]

Member Valdez asked why the driveway surface was allowed to be 14 feet rather than 20 feet. Captain Patty said the regulation of 20 feet wide applies to a road; 14 feet applies to a driveway on private property. At the time of a building permit they would be required to meet those standards.

Stating he has attended many meetings on the new code, Member Valdez said the emphasis has been on density and home occupations. He said a husband and wife is considered a family. With that he moved to approve the case and overturn the Land Use Administrator's decision. Member Katz seconded. The motion failed by 3-4 voice vote with Members Valdez, Katz and Anaya voting with the motion and Members Martin, Drobnis, Gonzalez and DeAnda voting against.

Chair DeAnda moved to uphold the Land Use Administrator's decision to deny Case #11-3090. Member Gonzales seconded. The motion passed [4-3] with Members Martin, Drobnis, Gonzalez and DeAnda voting in favor and Members Valdez, Katz and Anaya voting against.

VIII. PETITIONS FROM THE FLOOR

None were presented.

IX. COMMUNICATIONS FROM THE COMMITTEE

None were presented.

VIII. COMMUNICATIONS FROM THE ATTORNEY

None were presented.

IX. COMMUNICATIONS FROM STAFF
A. CDRC Regular Meeting August 16, 2012

X. ADJOURNMENT

Having completed the agenda and with no further business to come before this Committee, Chair DeAnda declared this meeting adjourned at approximately 6:45 p.m.

Approved by:



Maria DeAnda, Chair
CDRC

ATTEST TO:

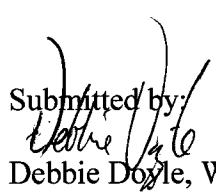
COUNTY CLERK

Before me, this ____ day of _____, 2012.

My Commission Expires:

Notary Public

Submitted by:



Debbie Doyle, Wordswork

Daniel "Danny Mayfield
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Katherine Miller
County Manager

Santa Fe County Fire Department Fire Prevention Division

Official Submittal Review

Date	July 12, 2012				
Project Name	Wagner, William Frederick				
Project Location	La Barbaria Trail T16; R10; S9 " Extreme Wildland-Urban Hazard Area"				
Description	Small lot family transfer land division	Case Manager	V. Archuleta		
Applicant Name	William Frederick Wagner	County Case #	11-3090		
Applicant Address	304 Lomita St. Santa Fe, NM 87505	Fire District	Hondo		
Applicant Phone	Agent; 820-9200 Phillip Weigel				
Review Type	Commercial <input type="checkbox"/>	Residential <input checked="" type="checkbox"/>	Sprinklers <input type="checkbox"/>	Hydrant Acceptance <input type="checkbox"/>	
	Master Plan <input type="checkbox"/>	Preliminary <input type="checkbox"/>	Final <input type="checkbox"/>	Inspection <input type="checkbox"/>	Lot Split <input checked="" type="checkbox"/>
	Wildland <input checked="" type="checkbox"/>	Variance <input type="checkbox"/>			
Project Status	Approved <input type="checkbox"/>	Approved with Conditions <input checked="" type="checkbox"/>	Denial <input 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 submitted plat, Special Building Permit Conditions; Development permits for building construction will not be issued until required improvements for road and emergency turn-around are completed and approved. Final acceptance based upon the Fire Marshal's approval. (page #2)
- 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. (page #2)
- The minimum 14' wide driveway/fire access driving surface shall not exceed 11% slope and shall have a minimum 28' inside radius on curves. (page #3)
- This development location is rated within an "Extreme Wildland-Urban Hazard Area" and shall comply with all applicable regulations within the SFC Ordinance 2001-11 / EZA 2001-04 as applicable for the Urban Wildland Interface Code governing such areas. (page #3)

- 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. (page #4)

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.

Per submitted plat, Special Building Permit Conditions; Development permits for building construction will not be issued until required improvements for road and emergency turn-around are completed and approved. Final acceptance based upon the Fire Marshal's approval.

Roads and driveways shall meet the minimum County standards for fire apparatus access roads within this type of proposed development. Driveway, turnouts and turnarounds shall be County approved all-weather driving surface of minimum 6" compacted basecourse or equivalent. Minimum gate and driveway width shall be 14' and an unobstructed vertical clearance of 13'6".

Any required turnarounds shall incorporate an area for emergency vehicle purposes such as a cul-de-sac or K-type or hammerhead type turnaround 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.

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 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.

▪ **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 minimum 14' wide driveway/fire access driving surface shall not exceed 11% slope and shall have a minimum 28' inside radius on 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, all 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.

Fire Protection Systems

Automatic Fire Protection/Suppression

Due to the remote location, the lack of water and the possibility of a residence 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 in any future construction.

It is also recommended that the homeowner and/or property owner contact their home insurance carrier to find out more information on minimum requirements for coverage.

Assistance in details and information are available through the Fire Prevention Division.

Urban-Wildland Interface

SFC Ordinance 2001-11, Urban Wildland Interface Code

This development location is rated within an "Extreme Wildland-Urban Hazard Area" and shall comply with all applicable regulations within the SFC Ordinance 2001-11 / EZA 2001-04 as applicable for the Urban Wildland Interface Code governing such areas.

▪ **Building Materials**

Buildings and structures located within urban wildland interface areas, not including accessory structures, shall be constructed in accordance with the Fire Code, the Building Code and the Urban Wildland Interface Code.

▪ **Location/Addressing/Access**

Per SFC 2001-11/EZA 2001-04, addressing shall comply with Santa Fe County Rural addressing requirements.

Per SFC 2001-11 / EZA 2001-04 Chapter 4, Section 3.2 Roads and Driveways; Access roads, driveways, driveway turnarounds and driveway turnouts shall be in accordance with provisions of the Fire Code and the Land Development Code. Roads shall meet the minimum County standards for fire apparatus access roads within this type of proposed development.

▪ **Vegetation Management**

It is recommended that the development also have a vegetation management plan to establish fire-safe areas and to minimize the threat and occurrence of fire in the urban wildland interface areas. 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 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 Final Development Plan approval with the above conditions applied.


Name, Inspector


Code Enforcement Official

7-18-12
Date

Through: David Spierling, Chief/Fire Marshal

File: DevRev/H/Wagner/071212

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

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Hondo Fire District

CHIEF
Tom Chilton

ASSISTANT CHIEF
Bruce Wollens

CAPTAINS
Adam Stively, EMS
Rich Fahey, Training

LIEUTENANTS
Michael Barela
John Calef
Terry Protheroe

HONDO STATION ONE
21 Seton Village Road
Santa Fe
New Mexico 87508
505 / 982-9999

Catherine Joyce-Coll

Dear Catherine,

As we have discussed, much of the land east of the intersection of Old Santa Fe Trail and La Barbaria Road has classification of "Extreme" in the US Forest Service Fire Assessment System. Below is the USFS definition of this term. Accompanying this correspondence is information from the USFS website that defines each of the classification terms.

Extreme:

Fires start quickly, spread furiously, and burn intensely. All fires are potentially serious. Development into high intensity burning will usually be faster and occur from smaller fires than in the very high fire danger class. Direct attack is rarely possible and may be dangerous except immediately after ignition. Fires that develop headway in heavy slash or in conifer stands may be unmanageable while the extreme burning condition lasts. Under these conditions the only effective and safe control action is on the flanks until the weather changes or the fuel supply lessens.

This definition only addresses expected fire behavior and fire suppression strategies. Of equal importance are some site conditions that will directly impact the safety of residents:

- There is only one means of egress for residents of the 140+ homes that are accessed via La Barbaria Road. The possibility of congestion on this road is very high if a large number of residents choose to evacuate at the same time. This condition will be even more hazardous if smoke is impairing visibility.
- Many of the roads in this area are privately maintained by homeowner associations. Thus, road conditions vary from excellent to twisted and rutted with deep drainage ditches. If a fire occurred while any of the unpaved roads were muddy from a recent rain, a stuck vehicle could turn the roadway into a very hazardous parking lot for anyone unable to get around that vehicle.
- There are places in this area where the road is not wide enough for a 10-foot wide fire engine and a passenger vehicle to safely pass in opposite directions.

- It is likely that alarmed residents trying to evacuate would encounter equally-alarmed residents wanting to get to their family, property or pets. While incoming traffic would be eliminated once the fire department arrived, there would be a period when two-way traffic could be hazardous for all involved.
- Due to snowmelt in the spring most of La Barbaria canyon has relatively high levels of ground moisture in bottomland areas. This naturally results in dense vegetation, especially shrubs and tall grasses. These are the types of fuels that result in the fastest moving fires.

Since much of La Barbaria canyon aligns with the region's prevailing southwest winds, the possibility of spot fires created by wind-blown embers is high. Spot fires can easily start one-half mile downwind from the main fire. Conditions like this make the hazards noted above to be of even greater concern.

Please let me know if additional information or discussion would be helpful. I would be pleased to meet with any of the neighborhood association in the area.

Sincerely,



Tom Chilton, District Chief
Cell phone: 690-7423

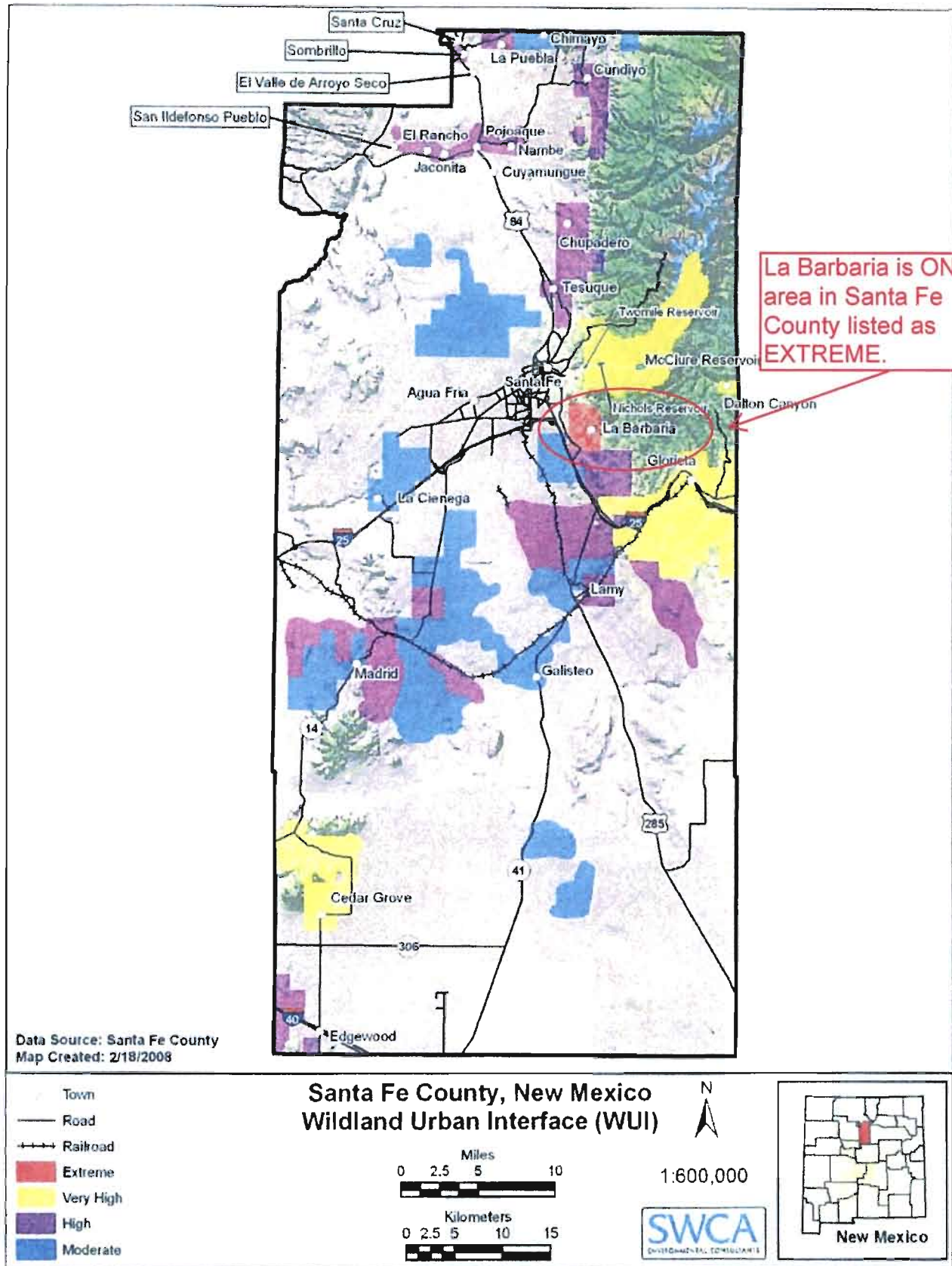


Figure 3.1. Santa Fe County Wildland Urban Interface.

Table 4.3. Communities' Ratings Summary

Community	Numerical Rating (Parts 1 + 2)	Adjective Rating		Changes between 2001 and 2007 Assessments
		2001	2007	
La Barbaria	28	E	E	Added a 10K gallon water tank; otherwise same as 2001 WUI Assessment
Apache Ridge	24	VH	VH	Canopy broken by beetle mortality; may mitigate crown fire potential in some areas
Cedar Grove	23	VH	VH	Increased housing development into piñon-juniper woodland, variable structural ignitibility/defensibility
Glorieta Mesa	22	VH	VH	No change
Hyde Park	22	VH	VH	Aztec Springs included in rating; Firewise work continues; water system added since 2001
Mailbox Road	-	VH	H	Fuel loading has changed due to beetle kill (not rated 2007)
Ojo de la Vaca	22	VH	VH	Canopy broken by heavy beetle mortality; improved fuels hazard rating in some areas
San Pedro	26	VH	VH	Narrow access and limited turnarounds; wind funnel through saddle to west
Bella Vista	-	H	H	Same as 2001
Bishop's Lodge	-	H	H	Same as 2001 with several condo lots added east of Lodge
Canada de los Alamos	-	H	H	Same as 2001
Canoncito	-	H	H	Same as 2001
Cerrillos	-	H	H	Same as 2001
Chupadero	-	H	H	Same as 2001
Cundiyo	14	H	H	High hazard in bosque/arroyos primarily with continuous fuels
Edgewood, Thunder Mtn.	-	H	H	Same as 2001
Glorieta Estates	19	H	H	Firewise work continues around structures; pruning, raking
La Cueva Canyon	-	H	H	Same as 2001
La Jolla	-	H	H	Same as 2001
Lamy	-	H	H	Same as 2001
Los Vaqueros, Cimarron	-	H	H	Same as 2001
Old Santa Fe Trail	-	H	H	Same as 2001
Pacheco Canyon	-	H	H	Same as 2001
Sombrillo, Cuarteles	-	H	H	Same as 2001
Tano Road	14	VH	H	Canopy opened by beetle mortality; main roads paved with improved access
Tesuque	-	H	H	Same as 2001
Turquoise Trail	-	H	H	Same as 2001
Arroyo Hondo	-	M	M	Same as 2001
Camel Tracks	-	M	M	Same as 2001
Chimayo	-	M	M	Same as 2001

Table 4.3. Communities' Ratings Summary, continued

Community	Numerical Rating (Parts 1 + 2)	Adjective Rating		Changes between 2001 and 2007 Assessments
		2001	2007	
Cordova	-	M	M	Same as 2001
Gan Eden	-	M	M	Same as 2001
La Cienega	-	M	M	Same as 2001
La Tierra	-	M	M	Fuel loading has changed due to beetle kill
Las Campanas	-	M	M	Same as 2001
Los Pinos	-	M	M	Same as 2001
Madrid	-	M	M	Same as 2001
Old Ranch Road	-	M	M	Same as 2001
San Marcos	-	M	M	Same as 2001
Santa Fe South	-	M	M	Same as 2001
Sunlit Hills	-	M	M	Same as 2001

E = Extreme
 H = High
 VH = Very High
 M = Moderate

In summary, the 2007 WUI Assessment identified one community rated as Extreme, six communities as Very High, 19 communities as High, and the remaining 15 as Moderate.

4.7 HAZARD ASSESSMENT NARRATIVES

The following narratives are from field forms for each rated community, noting vegetation, special conditions, fuels (including NFFL Fuel Model[s]), expected fire behavior, slope and other terrain features, and defensibility. The overall hazard rating is in parentheses. All of the assessments were performed in the fall of 2007. Narratives were arranged in descending order according to the adjective rating. Only the Extreme and Very High WUI areas are addressed in this document.

La Barbara (E)

2007

Vegetation: Ponderosa pine/grass/litter understory in drainage bottoms; piñon-juniper mixed with ponderosa on lower slopes, grading into pure, closing canopy piñon-juniper with drainages moderate to heavily fueled (grasses, shrubs, hardwoods, conifers, and dead and down woody materials).

Fuels/Expected Fire Behavior: Fuel Model 8 (low resistance to control) under open canopy; Fuel Model 4 (high resistance to control) in extreme fire weather conditions; Fuel Model 2, 5, or 10 (low to high resistance to control) under ponderosa canopy. Under primarily high-prevailing (west-southwest) wind conditions, the windward steeper slopes and drainages in alignment could produce intermittent to sustained and independent crown fire where canopy supports a continuous flaming front. Otherwise, expect low to moderately high intensity surface fire where supporting fuels exist (lower slopes, all aspects). Beetle mortality should have little effect on fire behavior in this area.

Slope/Aspect: Slopes range from 5–40%; all aspects represented.

Defensibility: Fair to poor; access can be difficult to impossible due to few turnouts, narrow surfaces, and no turnaround space; entrapment potential exists on driveways and roads leading to mid and upper slope structure locations; several structures may be passed up by fire crews under high severity conditions.

Apache Ridge (VH)

2007

Vegetation: Piñon-juniper on lower slopes, grading to ponderosa pine and Gambel oak woodland upper slopes.

Fuels/Expected Fire Behavior: Fuel Model 8/9 (with ponderosa litter); low to high resistance to control depending on canopy closure; Fuel Model 5 in dormant closed oak brush (high resistance to control on steep slopes with high wind alignment; otherwise surface fire low resistance to control); Fuel Model 9/10 under pure ponderosa canopy (low to high resistance to control, depending on wind, slope, and aspect). Note: significant beetle mortality on slopes may interrupt a running crown fire in some locations.

Slope/Aspect: 20–50% on all aspects.

Defensibility: Variable; many dead-end, narrow steep roads, few turnarounds; water availability varies from none to sporadic; defensible space varies from none to some thinning in yards; several structures may be passed up by fire crews under high severity conditions.

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