

MINUTES OF THE
SANTA FE COUNTY
PLANNING COMMISSION

Santa Fe, New Mexico

August 15, 2024

1. This meeting of the Santa Fe County Planning Commission called to order by Chair J.J Gonzales on the above-cited date at approximately 4:00 p.m.

A. & B. Roll call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

Members Present:

J.J. Gonzales, Chair
Erik Aaboe, Vice Chair
Ruben Mendoza
Jeremy Mier
Dan Pava
Wendy Pierard
Carl Trujillo

Member(s) Excused:

None

Staff Present:

Alexandra Ladd, Growth Management, Director
Jordan Yutzy, Acting Land Use Administrator
Dominic Sisneros, Building & Development Supervisor
John Lovato, Development Review Specialist
Roger Prucino, Assistant County Attorney
Jessica Gonzales, Building and Development Senior
Maggie Valdez, Case Manger
Destiny Romero, Case Manager

2. **Approval of Agenda**

A. **Amendments**

B. **Tabled or Withdrawn Items**

There were no changes to the agenda and Member Mier approval as published. Member Pierard seconded and the motion passed by unanimous [7-0] voice vote.

SFC CLERK RECORDED 09/20/2024

3. **Approval of Minutes**
A. **July 18, 2024**

There were no changes and Member Pierard moved approval. Member Trujillo seconded and the motion passed without opposition.

4. **Consent Agenda**

A. **Case #24-3013 Ramon Martinez, Applicant, Ralph Steele, Appellant, is appealing the Santa Fe County Land Use Administrators Administrative Decision regarding an Open Space Relocation request. The property lies within the Residential Fringe District (RES-F). The property is located at 6 Vista Los Alamos, 10 Vista Los Alamos and 15 Vista Los Alamos within Township 16 North, Range 8 East, Section 25 (Commission District 1), SDA-2. Destiny Romero, Case Manager. Unanimous, Denied. (AMENDED)**

[See page 36 for action]

5. **New Business**

A. **Case # 24-5040-Zachariah Sneesby, Applicant, Zac Sneesby, Owner, request approval of a CUP to allow Commercial Greenhouse to grow cannabis indoors (Cannabis Micro-Grower) on a 40-acre site. A proposed 3,000 ft. Greenhouse and an existing 760 ft. structure will be utilized for growing. A 400 ft. cellar will be utilized to dry and cure the product as a separate building. The site is zoned Residential Estate (RES-E). Appendix B, Use Matrix illustrates that a Commercial Greenhouse is a Conditional Use within the RES-E Zoning District. Ordinance No. 2021-03, Section 10.22.3.3 states, a cannabis producer or cannabis producer microbusiness that cultivates cannabis plants indoors shall be treated the same as the following use: Commercial Greenhouse. The site is located at 45 South Weimer Rd. (Edgewood) SDA-2 (Commission District 3). Case Manager, Jessica Gonzales**

JESSICA GONZALES: The Applicant requests approval of a CUP to allow a commercialgreenhouses to grow cannabis indoors on a 40-acre site. A proposed 3,000 square foot greenhouse and an existing 760 square foot structure will be utilized for growing. A 400 square foot cellar will be utilized to dry and cure the product as a separate building. The Applicant is required to comply with New Mexico Regulation and Licensing Department regulations pertaining to licensing and operating the facility. The Applicant has obtained a New Mexico Cannabis Producer Microbusiness license which allows a cannabis producer at a single-licensed premise to possess no more than 200 total mature cannabis plants at any one time.

The Applicant has addressed the CUP criteria and staff has responded to the Applicant's comments. The Applicant addressed and staff reviewed the following applicable design standards: access, fire protection, fences and walls, lighting, signs, parking and loading, road design standards, water supply and water conservation, terrain management, solid waste, air quality and noise.

Building and Development Services staff has reviewed this project for compliance with pertinent SLDC requirements and has found that the facts presented support for a conditional use permit to allow a proposed 3,000 square foot greenhouse and an existing 760 square foot structure to be used as a commercial greenhouse for the purpose of producing cannabis. The use is compatible with the current development within the effected zoning district. The use will not impact adjacent land uses and the application satisfies the submittal requirements set forth in the SLDC inclusive of the conditional use criteria set forth in Chapter 4, Section 4.9.6.5.

The review comments from County staff have established that this application is in compliance with state requirements, standard identified in the SLDC Section 10.22 and required design standards set forth in the SLDC.

On July 11, 2024, this request was presented to the Sustainable Land Development Hearing Officer. The Hearing Officer memorialized findings of fact and conclusions of law in a Recommended Order on this request. The Hearing Officer, based on the evidence presented, recommended approval of the CUP with staffs recommended conditions.

Staff recommends approval of a Conditional Use Permit to allow a proposed 3,000 square foot greenhouse and an existing 760 square foot structure to be utilized as a commercial greenhouse for the purpose of producing cannabis indoors.

If the Planning Commission finds the CUP criteria has been met and recommends approval of the CUPO, staff recommends the following conditions be imposed. Mr. Chair, may I enter these conditions into the record?

CHAIR GONZALES: Yes, you may.

Conditions:

1. The CUP showing the site layout and any other conditions that may be imposed through the approval process shall be recorded at the expense of the Applicants in the office of the County Clerk in accordance with Chapter 4, Section 4.9.6.8.
2. The Applicant shall obtain a Santa Fe County Business License.
3. The Applicant shall obtain building permits for proposed structures.
4. The Applicant shall not exceed the water allowance from the New Mexico State Engineers Office.

MS. GONZALES: Thank you. This report and the exhibits listed below are hereby submitted as part of the hearing record. Thank you and at this time I stand for any questions.

CHAIR GONZALES: Thank you, do we have any questions of staff?

MEMBER MENDOZA: Yes, I do.

CHAIR GONZALES: Go ahead, Mr. Mendoza.

MEMBER MENDOZA: Did you get a look at the social and economic equity plan for this particular project?

MS. GONZALES: Mr. Chair, Commissioner, I did not.

MEMBER MENDOZA: I'm sorry?

MS. GONZALES: I did not.

MEMBER MENDOZA: You did not?

MS. GONZALES: No.

MEMBER MENDOZA: I think it would have been useful to have it as part of the exhibits because it'll show who they're expecting to hire and what kind of economic equity they're going to give back to the community. That's part of the application plan on most of these projects.

JOHN LOVATO (Development Review Specialist): Mr. Chair, Commission member Mendoza, that is not required as part of the application for a CUP.

MEMBER MENDOZA: I understand that but it is part of the application with the state and I think it would be useful for us to see that because it is in our county.

MR. LOVATO: Mr. Chair, Commission member Mendoza, we will look into that and see if we can incorporate it into the future submittals.

CHAIR GONZALES: Any other questions of staff? I see none – oh, Erik.

MEMBER AABOE: Thank you, Chair. I'm looking at a couple of the exhibits and I just want to clarify, this is for a single 200 plant indoor grow; is that correct?

MS. GONZALES: Mr. Chair, Commissioners, that is correct.

MEMBER AABOE: When I look at the water budget it appears to show both an indoor and outdoor and I'm focused. I'm wondering if that's just for reference. If you look at Exhibit 3, it sums those two and so I'm just wondering what the disconnect is? Thanks.

MS. GONZALES: Mr. Chair, Commissioner, I can get the applicant to answer that question

MEMBER AABOE: Thanks.

CHAIR GONZALES: Any other questions of staff. Is the applicant here? Mr. Sneesby.

[Duly sworn, Zachariah Sneesby, testified as follows:]

ZACHARIAH SNEESBY: My name is Zachariah Sneesby. My address is 25 Yerba Buenos, Cerrillos, New Mexico, 87010.

CHAIR GONZALES: Thank you.

MR. SNEESBY: The problem with that is I keep in my mind the greenhouse space as an outdoor space and not the indoor space. I have small room set up to do a small winter crop which isn't more than 120 plants so that I can further my season but I only plan to do one season cropping in the greenhouse. So I'm only using available lighting. I'm not using any extra lighting or anything like that. So I kept thinking because it was more of an outdoor environment that that meant outdoor. And I was corrected to say that this was to be all indoor and I just didn't fix that on that particular paper.

MEMBER AABOE: Great, thanks.

MR. SNEESBY: Any other questions?

CHAIR GONZALES: Do we have other questions of Mr. Sneesby?
Carl.

MEMBER TRUJILLO: Excuse me, Mr. Sneesby, so you weren't going to give any presentation? You're just looking straight to questions; is that correct?

MR. SNEESBY: Yeah, if you want to ask any questions I'm open for it.

MEMBER TRUJILLO: That's fine. Most applicants will come with some proposal or something but that's fine we can go straight to questions.

Mr. Chair, does – let me get your name and make sure I say it right here –

MR. SNEESBY: That's the play with the Sneezing Bee Farms, that's how people used to refer to me. So I'm trying to turn a negative into a positive.

MEMBER TRUJILLO: Mr. Sneesby, the greenhouse currently isn't –

MR. SNEESBY: There is not greenhouse, no. It is to be built in the area, exactly.

MEMBER TRUJILLO: Okay, and the two current structures as I understand there's 40 acres of land but the two current structures in the site plan I don't see where they sit. It looks like they maybe sit maybe towards the right corner. I can't tell which is north or south but –

MR. SNEESBY: On the south east corner of the property, exactly. It's where the two structures are. I have a small hill so it actually blocks anybody that is actually really around me's view from where my two structure are. So when you're out there it feels like you're in the middle of nowhere actually.

MEMBER TRUJILLO: Okay, and the greenhouse, the intent is to place it close to these two structures?

MR. SNEESBY: Actually, there is an established pond with a large concrete box that I plan to use to hold my water in and the greenhouse will be behind it and then the pond will actually be set up to receive all of the catchment water that the greenhouse actually does provide. So that I can also put that into my fruit trees. So I'm also planning on a large catchment for the pond that is established there.

MEMBER TRUJILLO: So if I heard you correctly, the pond that is established or is it not?

MR. SNEESBY: It is established. The pond and the concrete structure were established. The man who grew about 20 years ago, grew garlic for most of the Italian restaurants in Albuquerque and I guess he had this way of floating the garlic after they finished out onto the ponds to wash it and then they had a big wash basin that's still there and him and his wife used to wash and then weave the garlic into the garlands and sell it all over Albuquerque. So that's what I'm also trying to do garlic there as well to keep that in memory of him.

MEMBER TRUJILLO: I don't know completely the cannabis law that was passed. I know one of the letters of opposition and this is for staff here, says that the use of domestic wells or water is not allowed for commercial grow purposes –

MR. SNEESBY: Exactly. I had to actually purchase commercial rights. I do have two wells on there. One that is a residential well that luckily when I was sold the property my realtor told me it was agricultural and that the well was pre-1955 with commercial rights. So I got very excited. Bought the property thinking this was a great opportunity for me and I didn't find out until I went to transfer the well over that that was totally wrong. Went to zoning, totally wrong, it was RES-E. I had no water rights. So I actually started the process and had to buy 2 acre-feet or 2 acres to have it as commercial. I had to buy 2.56 acre-feet of water to have that commercial right.

MEMBER TRUJILLO: So, Mr. Sneesby, that 2.56 acre or whatever the amount was that's been purchased and transferred to that particular – to divert for that particular purpose.

MR. SNEESBY: Exactly and it's been totally converted already, yes.

MEMBER TRUJILLO: Okay, Mr. Chairman, I don't have any other questions at this point, thank you.

CHAIR GONZALES: Wendy.

MEMBER PIERARD: Were there water rights associated with this property before you bought it?

MR. SNEESBY: The residential ones were. We had to do a whole rediscovery on where the well – I had to retrack down the well and all of the stuff of where the original well that was underneath a windmill, that's why I thought it was – plus the windmill was very destroyed and in my book I could have seen it as being an old windmill but then I understand it was actually drilled in 1977 and they didn't have the same, you know, engineer stuff back then. So he, the engineer and I, the State Engineer, found all of those records, got everything, figured it all out, got the testing, got all of that done and then transferred the water rights over. So I've been through quite a bit to get these water rights, yes.

MEMBER PIERARD: Very good, thank you.

CHAIR GONZALES: Any other question?

MEMBER MENDOZA: I have a comment actually.

CHAIR GONZALES: Yes.

MEMBER MENDOZA: Given the concern by the Commissioners of the Town of Edgewood I would encourage you to consider including in your project leak detection devices.

MR. SNEESBY: Yes, uh huh.

MEMBER MENDOZA: In case you get a leak, you can at least placate the Commission a little bit by doing that.

MR. SNEESBY: Okay, yes, I do have a blue tooth devise that I did install that does have leak protection on it.

MEMBER MENDOZA: Yes, I know because water is super precious.

MR. SNEESBY: I'm born and raised in Madrid so I know exactly how precious water is being from a non-good water source and everything that I have done in my life has been towards conserving water because of this so I do have a lot of water conservation type ideals for the way that I want to farm that are very high tech. And, you know, China is doing them and stuff like that. I plan to have agricultural solar panels over everything and feed back into the system with solar and I plan to have stuff like that and bees and everything to basically make it – well, I'm trying to create this as my career so I can step away from another career. So I'm hoping to do this right in the best way that I can so it prospers longer than me and hopefully to my family long after me.

MEMBER MENDOZA: Okay, thank you.

CHAIR GONZALES: Erik.

MEMBER AABOE: Thank you. Mr. Sneesby, do you live on this property?

MR. SNEESBY: No, I do not live on this property. I live in Cerrillos. That's where I was born and raised in Madrid but I moved to Cerrillos because of the water problems in Madrid because I wanted good water and be part of their active water board and stuff. I live in Cerrillos and I have hired my neighbor as my security because he's a really nice guy and we lonely have two people that live in front of me on this road. I'm at the end of this road and it dead ends and there's no one past me. So he's very aware because of his family and stuff of who goes up and down and then I do have this security system so if anything does go wrong he can actually be there right away to help me. And I felt this was an easier way than using resource and having someone there.

MEMBER AABOE: Great. And so is there – so your neighbor is doing security for you. Is there anyone living on this property?

MR. SNEESBY: No.

MEMBER AABOE: And did you say there were two wells on this property?

MR. SNEESBY: Yes.

MEMBER AABOE: The site plan I can only see the pre-existing commercial well into which you transferred the 2.5 acre-feet. Is the other well connected to anything?

MR. SNEESBY: No, no, it's only connected to the toilet in the house.

MEMBER AABOE: And there is a house but it's not currently occupied.

MR. SNEESBY: It's not currently occupied. That's the structure that I plan to turn into an office in the front with a small grow room in the back.

MEMBER AABOE: Got it. Just to be clear that the plumbing for this greenhouse operation will not be interconnected with the well that has residential rights; is that correct?

MR. SNEESBY: Not at all. They'll fully on two separate – it even has its own, the windmill had its own little tank that fills down to the other main tank and that's why I chose this type of system.

MEMBER AABOE: Okay, thank you very much.

MR. SNEESBY: Yep.

MEMBER PAVA: Mr. Sneesby, one question I had was since this is 40 acres, do you have any plans at this point for the remaining land as far as cultivation – it's a large piece of land.

MR. SNEESBY: No, the reason I first bought into a 40 acre was – and the agricultural, was that I felt that when I originally went to the hearing that was something that was kind of stated as being something that they would like to see as put to a dairy standard and that was a 40-acre lot. So I looked for a 40-acre lot but I never ever had plans to actually use it but I really felt that that was a good buffer zone for air quality and stuff like that from other neighbors and upon finding this particular piece it really felt perfect for that type of perfect scenario for me so that I wasn't being very obstructive to other neighbors and I was on my own a little so hopefully I can be as, you know, I'm a very recluse person in general, so I could be very private about it.

MEMBER PAVA: Thank you. So the vast majority of the land is native naturalized vegetation if any on the site. So it's basically a carbon sink.

MR. SNEESBY: Exactly, exactly.

MEMBER PAVA: Okay. One follow-up question, in the neighborhood meeting report I noticed it was held in Madrid which sounds like a great place to have a neighborhood meeting but that's quite a distance, and of course we have a big county –

MR. SNEESBY: I did try and resource a closer place and had a lot of kickback about why I was doing it and stuff like that. So I was unable to source a place and my next best was I was either going to go with the Cerrillos community, the park community center there. That was the only other place that actually said I could do it and then Lori at the bar offered me the Engine House Theatre and said I could do it there. So I thought it was a good place that people could find if they wanted to.

MEMBER PAVA: Thanks for that explanation. I think it's interesting you used a theater for this. Maybe we want to look at more of that sort of thing. That's all the questions I have. Thank you, Mr. Chair.

CHAIR GONZALES: Thank you. If anybody else has questions? If not, Jeremy, oh, Carl, go ahead.

MEMBER TRUJILLO: Mr. Chair, I have a couple more questions. Mr. Sneesby, so the well you got the commercial rights transferred to, did the State Engineer require you to put a meter on that well?

MR. SNEESBY: Yes, I have a meter on it. I haven't used it at all but yes I am putting in the proper – yes, I am keeping it active. Sorry, my mind is not thinking of the word that I want to say.

MEMBER TRUJILLO: Okay. You know with the purchase of this water where it stated beneficial use, so you might want to look into that just for your own wellbeing later on to see where you could possibly – well, I won't go into but it is probably better to look into it.

The one question I have is that I keep seeing the 200 plants and I don't know, is that a micro-grow or what?

MR. SNEESBY: Yeah, exactly. It's a very small grow and actually because I am planning on your having a small staff it probably won't ever reach that. I am hoping it could possibly get there but I don't know if I have the man power and resource right now to really actually accomplish that.

MEMBER TRUJILLO: Okay, and so then the next step is after 200 plants it goes to a macro?

MR. SNEESBY: It goes to 1,000 which is a commercial grow and I have never planned – I even think that 200 is a lot of plants to tell you the truth. And I think for what I'm trying to do is I'm trying to create good medicine and not just a lot of biomass and not just a lot because it has been a good medicine for me in my life and I want to see that continue. So I believe in the medical benefits of this over the greed or money that may come with it. I mean, I hope that it does bring in some money so I can survive but I'm not a person looking to get rich off of this. I'm just looking to hopefully subsidize some other crops that I hopefully can make money off as well and if one fails I have a backup. That's more of what this has been all about.

MEMBER TRUJILLO: Sure, and, Mr. Chairman, I mean things always change in life and you may sell it and you never know. So I guess the question for staff is if we approve this conditional use permit now and Mr. Sneesby or somebody else that buys the property decides they want to go into a macro-grow or something up to 1,000 plants, does it have to come back for another condition use permit?

MR. SNEESBY: Yes.

MR. LOVATO: Mr. Chair, Commission member Trujillo, that is correct, it would have to come back before you all.

MEMBER TRUJILLO: Okay. Thank you. Other than that, I don't have any other questions.

CHAIR GONZALES: Thank you very much. I've got a couple of questions. How many buildings are you going to utilize for your operation? You have a 3,000 square-foot greenhouse, 760 foot structure for growing and 400 square foot for drying in a cellar.

MR. SNEESBY: Exactly.

CHAIR GONZALES: And how many plants can you grow at one time?

MR. SNEESBY: Two hundred plants at one time. But actually in the indoor space it only has at max, if I really tried to crush them together, I could possibly get 160. But I was only planning about 120 to give them the space that they need and that's what I would call my winter grow so that I can keep a full season going but on the outside it's only ever going to be 200 plants and I will not be running the indoor thing at the same time.

CHAIR GONZALES: The other question I had is that I read in the packet that you're going to have two growings a year; how does that come out? The growing season here is kind of short. So how do you plan to have that?

MR. SNEESBY: That's what I'm talking about. I'm planning on doing the greenhouse during the summer time and using all of the available light during the summer time but then the 720 foot structure I have built a small indoor operation, like I said, that can only hold about 120 plants. And that one, I can hopefully get another crop out during the winter time when it's cold.

CHAIR GONZALES: So you're going to have two harvests per year.

MR. SNEESBY: Exactly.

CHAIR GONZALES: Is that what you plan to do?

MR. SNEESBY: Or possibly three is if I do it right but that's about the most.

CHAIR GONZALES: And that will not exceed the 200 plants you're allowed.

MR. SNEESBY: No, no, it never would because you also have the 200 that you're starting so there's actually a time where I could have those starting and then have them ready to go into my winter and then I can start my outdoor ones and then go out to my outdoors. That's the kind of flow plan.

CHAIR GONZALES: It looks like you have that kind of figured out because I can't grow too many things.

MR. SNEESBY: I have worked in the medical field of marijuana for about three years so I do know the process of this from the medical field. I didn't really

get along and like I say my recluse stuff came in so I felt working for myself would be the only way to – and then I also had some real bad stuff. I worked in the movie industry and I was part of the Rust incident and I felt this was a way to get out of that.

CHAIR GONZALES: The other question I had was in the packet we showed on Exhibit 6, we showed that the application with the State Engineer Office was pending. Have you gotten that finalized yet?

MR. SNEESBY: Yes, I have. I've gotten it back up and everything.

CHAIR GONZALES: What was the process you had to go through to do that? I know there's change of ownership is one and then point of use is the other.

MR. SNEESBY: Exactly. The big part was is that I had used an internet company to create my LLC, you know, and I didn't know that I could change – they started charging me more and more each month until I finally was like, you aren't really doing anything, and they were supposed to send me paperwork so I could change over the receivership and they never sent me that. Next thing I know, I was on a movie and I got the paperwork saying that it was up and that I had to change it over. I just unfortunately with the movie industry and my hours I did not get the time to do that in that 30 days and then I found out that it was definitely – you know, when I came here literally about two weeks later they told me that it was totally in because I just had the letter that it was going to go. I didn't know how long I had to respond and then when I realized that it was gone when I was informed I actually went and dealt with it very immediately.

CHAIR GONZALES: Thank you very much. Next, this is a public hearing. Anybody in the public wishing to speak for or against this application? Yes, please step forward.

MEMBER MENDOZA: Mr. Chairman, I wanted to ask him a quick question. I'm sorry I didn't pipe up sooner.

CHAIR GONZALES: Sorry, I didn't see your hand.

MEMBER MENDOZA: Oh, no, no, I didn't have my hand up. How many people are you planning to hire?

MR. SNEESBY: Right now I only have the one person hired and right now I can only actually – my wife and I have been doing most of the work because I really don't have a lot of money to hire anyone right now. But I do plan to hire at least three to seven people in different, you know, like as contractors because you have the trimming that I want to do by hand so I will hire a lot of independent contractors to do that part of it and stuff like that. As far as, you know, employees every day I do have plans to hire up toward seven maybe possibly. But even when I was working for the medical field I felt they overstaffed their stuff a lot of the time so there's was too many chefs in the kitchen type thing so I'm also trying to keep it as controlled as how my system is as well so I am very much overseeing a lot of it.

MEMBER MENDOZA: Okay, thank you.

MR. SNEESBY: Yes.

CHAIR GONZALES: Yes. Yes, member of the public please step forward, state your name and get sworn in.

[Duly sworn, Bill King, testified as follow:]

BILL KING: My name is Bill King and I'm a neighbor of this place. 251 King Road, Stanley, New Mexico.

I just have a question or a comment that I'd like to do. And I'm not certain if you're the person who locked the gate to try close the county road?

[Mr. Sneesby responds away from microphone.]

MR. KING: Because the access to my ranch goes to this county road and it's maybe a dead end at that but just because there's not a house there I don't want him closing the county road down for security reasons or something. That's a concern I have.

The other question I had was I have had some other people who were going to ask the County to grow marijuana but they wouldn't allow them to grow it outdoors. They said it wasn't zoned for that on the southern end of the County it had to be in the greenhouses; is that right or wrong? It's just a question.

CHAIR GONZALES: I think Mr. Lovato can answer that, John or Mr. Yutzy.

MR. LOVATO: Mr. Chair, they are allowed outdoors.

CHAIR GONZALES: They can?

MR. LOVATO: Yes.

MR. KING: Thank you. Oh and I didn't get the invitation to Madrid.

CHAIR GONZALES: Anybody else in the public? Jordan, anybody on line?

MR. YUTZY: Chairman, there's nobody on line wishing to speak.

CHAIR GONZALES: Okay. If there's no one else from the public wishing to speak, I'll close the public hearing. And what are the wishes of the Commission?

MEMBER TRUJILLO: Mr. Chairman, I'll move approval of case 24-5040, with the conditions 1-4 that are stated on the County Land Use report.

MEMBER PIERARD: I'll second.

CHAIR GONZALES: Thank you and Wendy seconded. We have a motion and a second. Do we have any discussion? Erik.

MEMBER AABOE: I believe there are seven conditions.

CHAIR GONZALES: Seven.

MEMBER AABOE: Maybe I am not –

MEMBER TRUJILLO: I see four.

MEMBER PIERARD: No there's seven.

MEMBER TRUJILLO: Oh, is there? I'll amend it to seven. [There were three conditions]

CHAIR GONZALES: We have an amendment for seven conditions. Everybody agree with that. Jeremy, any comments or discussion?

MEMBER MIER: Not at this time, no.

CHAIR GONZALES: We have a motion and a second, what are the wishes of the Commission.

The motion passed by unanimous [7-0] voice vote.

MEMBER AABOE: There are four.

MEMBER TRUJILLO: Four.

CHAIR GONZALES: Four, can you change that? There were four conditions.

[It was determined there were only four conditions]

B. Case # 24-5100 Goodman Management LLC, Conditional Use Permit (CUP) Variance (VAR). Goodman Management LLC, Owner, Lloyd & Associates Architects, Agent, request approval of a CUP/VAR to allow the expansion of an existing mini-storage facility. The Applicant proposes to construct four new buildings. Building F, 2,600 sq. ft., 13 storage units, Building H, 2,900 sq. ft., 10 storage units, Building I, 4,500 sq. ft., 30 storage units, and Building J, 7,100 sq. ft., 32 storage units. The 3.443-acre site is within the La Cienega and La Cieneguilla Community District Overlay (LCLCCD) and zoned as Commercial Neighborhood (CN). LCLCCD Use Table 9-8-15, illustrates that mini-warehouse/mini-storage units are a Conditional Use within the Commercial Neighborhood Zoning Subdistrict. The site is located at 18 Erica Road (Commission District 3), SDA-2. Case Manager, Maggie Valdez

MAGGIE VALDEZ: Good afternoon, Mr. Chair, Planning Commission. My name is Maggie Valdez. I'm a review development specialist senior. Today I come before you with Case #24-5100. Goodman Management LLC, Owner, Lloyd & Associates Architects, Agent, request approval of a CUP to allow the expansion of an existing mini-storage facility. The Applicant proposes to construct four new buildings. Building F, 2,600 square foot, 13 storage units, Building H, 2,900 square foot, 10 storage units, Building I, 4,500 square foot, 30 storage units, and Building J, 7,100 square foot 32 storage units. The Variance request is to allow to build per prevailing setback. The overlay zoning requires a 25-foot setback from the front of the property and a 50-foot setback from the sides and back property line. The point of these setbacks in the overlay is to give buffer to residential homes that boarder commercial developments; however, no residential uses are in the area of the property.

The 3.443-acre site is within the La Cienega and La Cieneguilla Community District Overlay and zoned as Commercial Neighborhood, Use Table 9-8-15, illustrates that mini-warehouse/mini-storage units are a Conditional Use within the Commercial Neighborhood Zoning Subdistrict. The site is located at 18 Erica Road.

Summary, the Applicant requests approval of a Conditional Use Permit is to add four storage buildings to the existing storage facility. The Variance request is to allow to build per prevailing setback. The overlay zoning requires a 25-foot setback from the front of the property and a 50-foot setback from the sides and back property line. The point of these setbacks in the overlay is to give buffer to residential homes that boarder commercial developments; however, no residential uses are in the area of the property. Additionally all of the existing buildings violate this setback. The owner proposes that the existing setbacks on site of 20 feet be followed as this is in keeping with this the underlying zoning.

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The Applicant proposes to construct four new buildings. Building F, 2,600 square foot, 13 storage units; Buildings H, 2,900 square foot, 10 storage units; Building I, 4,500 square foot, 30 storage units; and Building J, 7,100 square foot, 32 storage units.

The 3.443-acre site is within the La Cienega and La Cieneguilla Community District Overlay and zoned as Commercial Neighborhood.

In response to the CIP criteria and variance criteria the Applicant states the following, “the Applicant has addressed the CUP criteria and the variance criteria. Staff has responded to the Applicant’s comments.”

Applicable design standards, the Applicant has addressed the applicable design standards as regulated by the SLDC. Building and Development Services staff has reviewed this project for compliance with pertinent SLDC requirements, and has found that the facts presented support the request for a Conditional Use Permit, CUP, to allow the expansion of an existing mini-storage facility constructing four new buildings that consist of 2,600 square foot with 13 storage units, 2,900 square foot with 10 storage units and 4,500 square foot with 30 storage units, 7,100 square foot with 32 storage units on 3.443-acre site.

The use is compatible with the current development within the affected Zoning District; the use will not impact adjacent land uses; and the application satisfies the submittal requirements set forth in the SLDC, inclusive of the Conditional Use criteria set forth in Chapter 4, Section 4.9.6.5.

The review comments from the State Historic Preservation Office and County staff have established findings that this application to allow four new storage units is in compliance with State requirements, standards identified in SLDC Section 9-12-3 and required design standards set forth in Chapter 7 SLDC.

Hearing Officer Recommendation: On July 11, 2024, this request was presented to the Sustainable Land Development Hearing Officer. The Hearing Officer memorialized findings of fact and conclusion of law in a Recommended Order on this request. The Hearing Officer, based on the evidence presented, recommends that the application be granted, subject to the conditions required by Staff.

Staff recommends approval of a Conditional Use Permit to allow for the expansion of an existing mini-storage facility constructing four new buildings that consist of 2,600 square foot with 13 storage units, 2,900 square foot with 10 storage units and 4,500 square foot with 30 storage units, 7,100 square foot with 32 storage units on 3.443-acre site.

Mr. Chair and Commission, may I enter the conditions into the record?

CHAIR GONZALES: Yes, you may.

Conditions are as follows:

1. The CUP showing the site layout and any other conditions that may be imposed through the approval process shall be recorded at the expense of the Applicants in the office of the County Clerk in accordance with Chapter 4, Section 4.9.6.8.
2. The approval of the CUP will allow for the expansion of an existing mini-storage facility constructing 4 new buildings that consist of 2,600 sq. ft with 13 storage units, 2900 sq. ft. with 10 storage units and 4,500 sq. ft. with 30 storage units, 7,100 sq. ft. with 32 storage units on 3.443-acre site. as illustrated on the drawing that was submitted to staff.

3. The Applicant shall obtain a Santa Fe County Business License.
4. The Applicant will need to follow the Sustainable Design Standards and code requirements found in Chapter 7, of the SLDC.
5. The applicant will need to obtain a Development Permit from Santa Fe County before construction begins.
6. The applicant will need to obtain a Building Permit from CID before any construction shall begin.

If the Hearing Officer finds the variance criteria has been met and recommends approval of the variance, staff recommends the following conditions be imposed:

1. No future expansion of the facility will be granted for this particular lot.
2. No additional encroachment of the setbacks or easements shall be permitted.

MS. VALDEZ: This Report and the exhibits listed below are hereby submitted as part of the hearing record. Mr. Chair and Commission, I stand for questions.

CHAIR GONZALES: Do we have any questions of Maggie?

MEMBER PIERARD: Question.

CHAIR GONZALES: Wendy.

MEMBER PIERARD: So all the surrounding zoning is all commercial?

MS. VALDEZ: It's all commercial in that area, yes, ma'am.

CHAIR GONZALES: Carl.

MEMBER TRUJILLO: Mr. Chairman, Maggie, how are you doing?

MS. VALDEZ: Good. How are you Carl?

MEMBER TRUJILLO: Good, good. So the 25-foot setback and the 50-foot setback from the sides, the current structures that are there they were put in before the Sustain Land Development Code went into effect?

MS. VALDEZ: So there are some structures on the property that are encroaching on setbacks – am I correct? And then they also want to bring in some new storage units that will not meet setbacks. They'll be on the setbacks.

MEMBER TRUJILLO: Okay, so there's currently buildings on the location. There are storage sheds there now.

MS. VALDEZ: Right. They're on that same location. They're going to be in that same area where all the existing ones are already there.

MEMBER TRUJILLO: Okay and all of the existing ones do they even meet this 25- or 50-foot setback?

MR. YUTZY: Chair, Commissioner.

CHAIR GONZALES: Yes, Jordan.

MR. YUTZY: Right now they are actually considered legal non-conforming. They were there before the SLDC went into effect and the overlays were changed and the setbacks were changed. They were legal at the time that they were built but now with the change in zoning and the change in setbacks, they're considered legal non-conforming.

MEMBER TRUJILLO: Okay, I was going to get to that point. Thank you for that. I don't have any other questions.

CHAIR GONZALES: Mr. Pava.

MEMBER PAVA: Thank you, Mr. Chair. Ms. Valdez, when you entered the conditions into the record, does that include the two additional conditions that the zoning Hearing Officer was asked to include so there is really like eight conditions?

MS. VALDEZ: Yes, there are eight conditions.

MEMBER PAVA: Thank you.

MS. VALDEZ: Yes, that would be the variance.

MEMBER PAVA: Yes, thank you.

CHAIR GONZALES: If not, I have a couple of questions. You know we had the issue with setbacks come up before in different parts of the County. Why is it La Cienega/La Cieneguilla has a 50-foot setback on the sides and the back of the property? Is that ever going to change to be consistent with the other parts of the County allow?

MR. LOVATO: Mr. Chair, our planning department is currently working to reduce those setbacks in certain areas within that zoning district. So, yes, that will be coming before you. I couldn't give you a date but it should be coming soon.

CHAIR GONZALES: Right now the setbacks are 50 feet and these buildings don't conform with the setbacks. They encroach into the setback by how many feet?

MS. VALDEZ: By 20 if I'm correct. Is it 25? It's 25 feet, so they're encroaching 25 feet and that's what the variance is for.

CHAIR GONZALES: And the older buildings that were built there, are they within the allowable setback? They were built in 2001 or 2002.

MR. LOVATO: Mr. Chair, that is correct and they are legal non-conforming structures.

CHAIR GONZALES: And when was this changed the 50-foot setbacks, when did that occur?

MR. LOVATO: Mr. Chair, that changed in 2016 when they wrote the ordinance and included the overlay districts.

CHAIR GONZALES: How did that change? I wasn't aware that it changed in our area, La Cienega.

MR. LOVATO: Mr. Chair, Commissioners, the way it was done was through public hearing and proper notice to proper – within the area through the zoning district. And mail outs were sent. Formal hearings were set, meetings were set and then it was adopted.

CHAIR GONZALES: And now the proposal, the proposed new changes in that area are going back to 25 feet; is that what the County is recommending?

MR. LOVATO: Mr. Chair, I do not have the answer to that question but I can look into for you.

CHAIR GONZALES: Okay.

MEMBER TRUJILLO: So, Mr. Chairman, a little bit of history here. These overlay districts, I was very involved with them because at the time when I was representing the community down in the valley, the County did reach out to all the different, you know, Chimayo, Pojoaque, Nambe, La Cienega and it was Mr. Griego, I think was his name, the gentleman, and so we would send out as many emails as possible and try and engage the public to get there but ultimately you go to the meeting and at some meetings there would only be one or two people. So now he's asking for input from a whole community and maybe it came to this area and one or two people showed up and

they said we think this is what we want in our community. And so the County did try and reach out but you know as people are busy with their lives and stuff it's always hard to get a lot of community involvement. Down in the valley we actually had quite a few people and we actually set some pretty reasonable setbacks that got adopted in the Sustainable Land Development Code.

CHAIR GONZALES: Thank you for the lesson here, Mr. Trujillo. If not, if we don't have any more questions of staff, then is the applicant here? Please step forward.

[The recording secretary stepped out of the room momentarily]

[Duly sworn, Wayne Lloyd, testified as follows:]

WAYNE LLOYD: Wayne Lloyd, 740 St. Michaels Drive. I think Maggie did a great job and I don't have anything to add. I will stand for questions.

CHAIR GONZALES: you have to say something to us. State your case.

MR. LLOYD: State our case. Well, the existing buildings were built 10 or 15 years ago. That whole property was sold to the present owner. They were built initially conforming to all the setbacks. The zoning changed in the timeframe of when they were built till now so the buildings that we're proposing to keep the same setback as the existing buildings that you don't even see from the road. I don't know if we can bring up a site plan or not? You have it? So you can see the one that we're filling in is in between two buildings that are already at a 25-foot setback so we're just taking it out to the same point. It seems irrational to set that one back 50 feet when the two right beside it are at 25 feet. The staff agreed with us and I don't think I can elaborate any further than that.

CHAIR GONZALES: Thank you very much. I think we might have some questions. Erik.

MEMBER AABOE: Thanks very much. Mr. Lloyd, I'm looking at the aerial photo and I'm looking at the site plan and after I rotate them to be the same I can't count and make things match with the request. If you look at the decreasing – the shrinking row that parallels Erica Street, I count four existing buildings and in the site plan there are seven buildings that are drawn and the ones that go square to Erica, I show one that exists and a really narrow one and that becomes four. So I see an additional eight structures, I think, but there's only a request for four. So I'm trying to reconcile what I see from the sky, what exists right now and what I see in the site plan. So I'm not sure if that was clear enough but I wonder if you can help me understand.

MR LLOYD: Yes, it was clear but I do have the site plan showing the four buildings that we're adding and I presume that you have that. Now I don't have – I don't think I have an aerial view of that. I'm not sure –

MEMBER AABOE: Could you speak in the mike please.

MR. LLOYD: Yeah, the aerial --

MEMBER AABOE: Could you speak in the mike, please, thanks.

MR. LLOYD: The aerial view simply isn't current.

MEMBER AABOE: Okay, so what is shown in the aerial view is not what's on the ground right now. Okay. The other question I have is regarding the coverage right. That's what I've got but I'm looking at the aerial and the aerial is incorrect. So if we went to Google Earth right now we would see something closer to your site plan. Great.

The other question I have and I think there were a number of questions from the Hearing Officer about lot coverage. I think the requirement is at least 50 percent of the lot not be covered.

MR. LLOYD: Yeah.

MEMBER AABOE: And she – there were a number of questions on that. Does that lot coverage – is that just about the buildings or also asphalt?

MR. LLOYD: As far as I know that's the building.

MEMBER AABOE: And staff is that correct; does the asphalt count against the coverage?

MR. LOVATO: Mr. Chair, Commission member Aaboe, it does count against the coverage.

MEMBER AABOE: Right answer, thanks. That's the only question I had. Thank you very much.

MR. LLOYD: Thanks.

CHAIR GONZALES: Do we have any other questions? Carl.

MEMBER TRUJILLO: Yeah, Mr. Chairman, Mr. Lloyd, now after you've clarified the aerial view and then the site plan it looks like those buildings that aren't shown on the aerial that you say here, existing non-permit after-the-fact permit, so has the permit been obtained or is that going to be in the process of obtaining these new permits?

MR. LLOYD: I'm not sure I follow the question.

MEMBER TRUJILLO: I'm looking on the site plan right now and every other building, Building B, it says existing non-permitted after-the-fact permit.

MR. LLOYD: Yes, what happened was the original builder built a certain number of those buildings that show up in the aerial. They also poured slabs because they didn't have enough money to build them all. So somewhere before the time that this owner bought this property they built those buildings on the slabs and they didn't permit them.

MEMBER TRUJILLO: Right.

MR. LOVATO: Mr. Chairman, Commissioner Trujillo, if I can also clarify that two of those structures are non-permitted so they will have to obtain after-the-fact permits for those structures as well.

MEMBER TRUJILLO: Okay. Mr. Chairman, is that in the conditions if approved; is that listed in there?

MR. LOVATO: Mr. Chair, Commissioner Trujillo, I did not see that as a condition and that may be something that the Board impose.

CHAIR GONZALES: Any other questions? If not, I've got a couple of questions. I saw in the packet that there were six existing buildings; is that what you saw that?

MR. LLOYD: There was what?

CHAIR GONZALES: There were six existing buildings on that property before you made this application.

MR. LLOYD: There were seven.

CHAIR GONZALES: Seven?

MR. LLOYD: Yes.

CHAIR GONZALES: Okay, in the packet it was six but I guess the maps and aerial show seven and you're adding four buildings and two of those have to be after-the-fact permits.

MR. LLOYD: Yes.

CHAIR GONZALES: And the existing buildings were they within the 50-foot setback or the 25-foot setback? What's the closest you are to the property lines front, back and sides?

MR. LLOYD: Twenty-five feet. Both the existing and the new are conforming to that.

CHAIR GONZALES: They are within 25 feet – okay. That is good news because the County has a 25-foot setback countywide in some areas, La Cienega it's been a 50-foot setback. So at some point you get a variance with the new revised La Cienega plan you'll probably be in compliance.

Do we have any more questions of staff, I mean the applicant? If not, this is a public hearing anybody from the public wishing to speak for or against? Anybody on line, Jordan?

MR. YUTZY: Chairman, there's nobody on line wishing to speak.

CHAIR GONZALES: I guess we will close the public hearing. What are the wishes of the Commission?

MEMBER AABOE: I move to approve the variance request including all of the conditions plus an additional condition that the applicant must obtain after-the-fact permits for all structures not currently properly permitted.

CHAIR GONZALES: Thank you, Erik.

MEMBER PIERARD: Second.

CHAIR GONZALES: We have a motion and a second. Do we have any discussion? Dan.

MEMBER PAVA: Yes, thank you, Mr. Chair. Would the maker of the motion consider that we add an additional condition to the effect, any additional buildings that haven't been permitted must be submitted for permit approval prior to a CO being issued for the new buildings.

CHAIR GONZALES: Is that a friendly amendment?

MEMBER AABOE: Yes, I'll accept that although a CO is not the responsibility of the County.

MEMBER PAVA: If you want to reword it somewhat that's fine. I think you've got the intent.

MR. LOVATO: Mr. Chair, Commission member Aaboe, if I may intrude. An after-the-fact permit will require a certificate of completion from Santa Fe County so we do inspect that portion so that could be an amendment to your motion.

MEMBER AABOE: If we change the word to completion in your request, yes, that's a friendly amendment to me. Thank you.

MEMBER PAVA: I concur with that, thank you.

CHAIR GONZALES: Any discussion on any of the motions?

MEMBER TRUJILLO: Just that I'm clear so we don't put this gentleman in a bind, the County because the State won't offer a certificate of occupancy for something that is permitted later on so you're saying that the County will go in and just give the approval that it can be occupied or used?

MR. LOVATO: Mr. Chair, Commission member Trujillo, that is correct.
MEMBER TRUJILLO: Okay, so that ultimately is what the amendment is that is offered. Okay, I just want to make sure we don't put you in a bind. Okay.
CHAIR GONZALES: Okay, yes, now we have a motion and a second with a friendly amendment and conditions. Those in favor.

The motion passed by unanimous [7-0] voice vote

CHAIR GONZALES: Thank you.
MR. LLOYD: Thank you.

C. Case # 24-5060: Beverly Todd, Applicant, requests approval of a density variance to allow two dwelling units on a 4.997-acre parcel, Of Chapter 8 table 8-9: Dimensional Standards-Residential Fringe (RES-F). The Applicant has an existing main residence of 2,300 sq. ft. and a guest home 2,300 sq. ft. The subject property lies within the Residential Fringe zoning district (RES-F) where the base density is one (1) dwelling per 5-acres. The property is located at 83 Apache Ridge Road. SDA-2, within Township 15 North, Range 8 East, Section 3 (Commission District 4). Case Manager, Dominic Sisneros [*Exhibit 1: Santa Fe County – Tax Parcel Viewer; Exhibit 2: Applicant's statement dated 8/15/24*]

DOMINIC SISNEROS: Thank you, Mr. Chair, Commission members, Dominic Sisneros, Building and Development Supervisor with Growth Management Division. Beverly Todd, Applicant, requests approval of a density variance to allow two dwelling units on a 4.997-acre parcel, of Chapter 8 table 8-9: Dimensional Standards-Residential Fringe. The Applicant has an existing main residence of 2,300 square feet and a guest home 2,300 square feet. The subject property lies within the Residential Fringe zoning district where the base density is one dwelling per 5-acres. The property is located at 83 Apache Ridge Road. SDA-2, within Township 15 North, Range 8 East, Section 3, Commission District 4.

This application was submitted on April 12, 2024. The Applicant presented a submittal/application The applicant presented a submittal application for a short-term rental registration and a business license for an art studio to staff. The site plan and aerial photos illustrated a primary residence, a second dwelling with a loft, that included a bathroom and kitchen, a structure/studio, and an accessory structure that is utilized as a garage. Staff conducted a search on the County database to verify that all structures being utilized for the short-term rental on the property, had been permitted with Santa Fe County. Staff determined that the primary residence, the structures/studios, and the garage had been permitted with Santa Fe County. The ADU with the loft area at some point in time with the structure/studio was converted into a dwelling with a loft. The Applicant has stated that the property was purchased as is and recorded with the Santa Fe County Clerk's Department on September 20, 2019.

The Applicant is requesting a variance of Table 8-9 Dimensional Standards for Residential Fringe zoning, to allow two dwellings on a 4.997-acre lot. Residential Fringe zoning allows for one dwelling per 5-acres. The primary residence consists of 2,300

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square feet heated area and the second dwelling consists of 2,300 square feet which includes a loft. The Applicant states that she bought the property as is with the second dwelling having a loft and exceeding the square footage that would allow it to qualify as an accessory dwelling unit, and is on an individual septic system, which is contrary to the SLDC standards for an accessory dwelling unit as defined by the SLDC, Section 10.4.2.3.

The Applicant has addressed the variance criteria and staff has responded to the Applicant's comments.

On June 13, 2024, the request was presented to the Sustainable Land Development Hearing Officer. The Hearing Officer memorialized findings of fact and conclusions of law in a recommended order on this request. The recommendation of staff and the Hearing Officer, based on the evidence presented, is for denial of the request to allow a variance of density to allow two dwelling units on a 4.997-acre parcel.

If the Planning Commission finds that the application has met the variance criteria and recommends approval of the variance, staff recommends the following conditions be imposed. May I enter these conditions into the record?

CHAIR GONZALES: Yes, you may.

Conditions:

1. No Accessory Dwelling Units be allowed / no additional dwelling units be allowed / no further division of land.
2. All existing Structures shall be permitted with Santa Fe County. [amended at motion]
3. Applicant shall provide OSE and NMED permits at time of after the fact permit submittal.
4. Applicant shall obtain a Santa Fe County business registration.

MR. SISNEROS: This report and the exhibits listed below are hereby submitted as part of the hearing record. Thank you, at this time I stand for any questions.

CHAIR GONZALES: Thank you. Do we have any questions of Mr. Sisneros? Dan.

MEMBER PAVA: Thank you, Mr. Chair. Mr. Sisneros, could you provide me a little more context on the nature of the so-called density variance? In my past experience, this is a little new for me, I would consider something like a zone change that are actually allowed in Santa Fe County obviously, to grant something like a density variance. So could you elaborate a little bit more on how that works?

MR. SISNEROS: The existing zoning allows for one dwelling per 5 acres. A request for a density variance is asking for an easing of the code to allow more than one allowed residence for the acreage that is allowed on the property. So therefore, rather than the one dwelling per 5 acres, since they're just under the 5 acres, instead of the one dwelling they are asking for two full primary dwellings.

MEMBER PAVA: I think I get that part. Yes, so in Santa Fe County it is part of the code that density variances are described as a procedure in the code.

MR. SISNEROS: A variance request is the procedure. The variance to the density is particular to that zoning district.

MEMBER PAVA: Okay, thank you. My next question, regarding both of these equal size units are on one septic system right?

MR. SISNEROS: Yes, that is correct.

MEMBER PAVA: Would the existence or installation of a separate septic system as required by code be a conditional of approval mitigate any granting of this variance. I know staff has recommended against the granting of the density variance and part of the density variance would then be connected to things like septic systems because this is a residential fringe area and those are the kinds of concerns we have in these according to the Land Development Code; would you care to offer an opinion or address this? I noticed that it is not discussed anywhere the idea of some reconfiguration of the loft part of the second unit away from and separate with an entrance from the artist studio was discussed but I didn't see any mention of the septic system. If this were to be approved would they be required to put in a separate septic or is that not something that staff is concerned with?

MR. SISNEROS: so they wouldn't be required. If this structure would have been considered an accessory dwelling unit they would have been required to share the driveway as well as the utilities. If this property is granted a density variance they would be allowed to put a second septic system if, again, they were approved.

MEMBER PAVA: But they would not be required to install it?

MR. SISNEROS: No, that is correct. They would not be required.

MEMBER PAVA: Thank you for the clarification. Thank you, Mr. Chair.

CHAIR GONZALES: Thank you, Mr. Pava. Mr. Mendoza.

MEMBER MENDOZA: Dominic, I was curious did you maybe happen to look into the well at all? Do you know what the State Engineer's allocation is for that particular well and is the well metered?

MR. SISNEROS: They do have a well permit as part of some of the exhibits. A well permit was granted. It may not have been submitted as part of the exhibits. I can ask the applicant and we can ask the applicant if that well is metered. I am not aware if that current well is metered or not.

MR. LOVATO: Mr. Chair, Commission member Mendoza, at the time of development, of any developments as such, they will be required to .25 acre-feet per dwelling in this particular case it would be that .25 acre-feet for each residence.

CHAIR GONZALES: Thank you for that Mr. Lovato. Carl.

MEMBER TRUJILLO: Yeah, Mr. Sisneros, just walk me through the site plan real quick. I see a residence there and then I see a studio – I see three things listed as studios and so these are existing buildings, I take it, and so the residence is considered the residence and then the other structure that is equivalent in size, right? Is that supposed to be – I think I read they were both 2,600 square feet or 2,300 square feet? Which is the second building on that site plan that is the 2,300 square feet?

MR. SISNEROS: So it is the north east structure.

MEMBER TRUJILLO: Okay, and then the structure just to the left of that, is that another studio?

MR. SISNEROS: That is just another studio labeled as a studio but that is, in fact, just an accessory structure.

MEMBER TRUJILLO: Okay, and then does that – then there is one as you drive in; is that correct?

MR. SISNEROS: That is correct. That's the accessory structure that is a garage.

MEMBER TRUJILLO: That's a garage. It is listed as a studio here. Okay. So the question is, is all the ones – the ones that do have bathrooms or use of water are the two structures but not the studio on top to the left?

MR. SISNEROS: So the two structures that are considered the residence is the central structure that is the main residence and then the structure that is northeast that was permitted originally as an accessory structure/studio but was converted into a dwelling with a kitchen and a full bathroom.

MEMBER TRUJILLO: Okay. Thank you, Mr. Chairman and thank you, Mr. Sisneros.

CHAIR GONZALES: Any other questions? Yes, Wendy.

MEMBER PIERARD: Then the studio on the left of that one, does that have any water? Is there a bathroom in that just no kitchen?

MR. SISNEROS: I'm not one of the original staff members that did that inspection. I don't believe that there is water in that structure. If there is it may be just a half-bathroom. I would have to confer with the applicant on that.

CHAIR GONZALES: Erik.

MEMBER AABOE: Thank you, Mr. Chair. I just want to get clear on the septic system. My understanding is that if there were to be a reconfiguration to turn the existing, plumbed studio into something that could be approved as an accessory structure then those two would be required to be on the same septic system; right? Because I remember we had one a couple of times ago where that was a problem. So I think that if there were, as the Hearing Officer suggested, some opportunity to split the space up into a smaller ADU with studio adjacent, the septic works out just fine. Is that close?

MR. SISNEROS: That is correct. So an accessory dwelling unit must share the driveway and utilities with the primary residence. So if that were converted into an accessory dwelling unit it would be required to share which she meets the standards of right now.

MEMBER AABOE: Thank you very much. I have another question that is kind of of staff. I understand that the intention is to use this as a short-term rental. If this variance were denied by this body and appealed to the BCC and denied, does the property owner – are they able to put one of these places out for rent that doesn't go through the STR process? What is the way to address the existing condition on the ground? Does that make sense?

MR. SISNEROS: So as it exists right now the unpermitted conversion of the structure into a dwelling it doesn't meet SLDC standards. It would either have to be converted as such the Hearing Officer had recommended partially where it could be considered an accessory dwelling unit and then that could be subject to a short-term rental or a long-term rental. But as it stands now, we wouldn't be able to issue any type of license because it does not meet the standards as it is a full dwelling.

MEMBER AABOE: You would not have to issue any type of license if they chose to bring their cousins in from Indiana or if they chose to put it out for rent. The County would take no action unless there was a bunch of guys going out demanding it be torn down or something. I'm trying to understand if they exit this unsuccessfully

what is the next route to be able to utilize this structure or is reconstruction or demolition the only approach for them?

MR. SISNEROS: So it would have to be reconfiguration or demolition, the removal of the bathroom and/or full bathroom and kitchen.

MEMBER AABOE: And how would that happen? I am just trying to think of the County processes. Is that a situation for the code enforcement inspectors would come out and issue a notice of violation, you because you came in and got caught with the STR process now have to do this or you would be subject to whatever the \$300 violation – whatever the terms and conditions are – and go to district court; is that pretty much the process?

MR. SISNEROS: Yes, this property would be subject to a notice of violation from code enforcement.

MEMBER AABOE: As you can see, I'm not really too happy with this process. Thank you very much.

MR. LOVATO: Mr. Chair and Commissioner Aaboe, just to take note, accessory structures such as studios and such are non-habitable structures. So no one would be able to reside or stay in one.

MEMBER AABOE: And so that's an enforcement action not a development permit. I guess an enforcement action. Thanks.

CHAIR GONZALES: Thank you, Erik. Do we have any other questions? Carl.

MEMBER TRUJILLO: Mr. Chairman, Mr. Sisneros, so the – just so I'm clear – the variance that's being requested is a density variance and so with the density variance will allow the two, if granted, will allow the two units that are equivalent size basically. So then the third structure that may or may not have a bathroom in there would be considered an accessory dwelling to the variance; is that how that would work?

MR. SISNEROS: No, that existing structure would still remain an accessory structure. An accessory dwelling unit is a full bathroom – either a full bathroom and kitchen or kitchen. An accessory structure can have one toilet and one sink but it is not considered a dwelling.

MEMBER TRUJILLO: Got it. Thank you, Mr. Chair.

CHAIR GONZALES: Mr. Pava.

MEMBER PAVA: I didn't want to ask three questions in a row but then I actually remembered I had another question and Mr. Sisneros and staff were kind enough to prepare a map that shows the surrounding area. I had requested this late yesterday evening so I appreciate this. The reason that I had requested the map was to ask staff regarding in the proximity are there other approved short-term rentals and are there other ADUs that have been built and/or approved. And this is just to provide context a little bit more to this request because there has been some mention in letters regarding the proposal that maybe there are too many in this area and the County should be careful in reviewing these requests.

So the question is, are there, to your knowledge, other STRs and ADUs in proximity? Maybe as shown on the map that you handed out, this exhibit within a quarter mile or so, within the neighborhood.

MR. SISNEROS: So there was recently a case that was brought forward that is similar to this request, the Francis Phillips case, that was denied by the Planning

Commission and then appealed to the BCC and approved at the BCC. That's the only one I know of this nature that is in this area.

MR. YUTZY: Chair and Commissioners, to let you know that there are probably some more in the area and when the ordinance was passed for STRs we have a limit on the number and I believe it is depending on where you are, it's three to five percent of the total number of homes in a census district for non-owner occupied. There really is no – in the ordinance there is none for owner occupied and this one would be considered an owner occupied STR so the County has not enforced any limits on owner occupied. The only limits are on non-owner occupied.

MEMBER PAVA: Let me repeat what you just said, Mr. Yutzy. That this would be considered a situation where the STR would be owner occupied.

MR. YUTZY: Yes.

MEMBER PAVA: I think that's an important clarification in this particular case and every case has to be considered on its own merits not necessarily just because there are others in the area. Thank you.

CHAIR GONZALES: Thank you, Mr. Pava. Carl.

MEMBER TRUJILLO: Mr. Chairman, Mr. Sisneros, so if this is approved, you know, I look at the conditions here it says, Applicant shall provide OSE and NMED permits at the time or of after-the-fact permit submittal. So when this person who owns this property goes to the Environmental Department, they're going to look to rectify this and there's going to be a couple possible solutions. One of them would be, depending on whether the tank size is large enough, they may have them add more leach field. Maybe they have them replace the tank or maybe they have them add another septic system but my point being whatever the NMED recommends as a path forward is the County going to accept that based on this condition here.

MR. SISNEROS: Yes, that is correct.

MEMBER TRUJILLO: Okay. No matter whether it says that an accessory dwelling has to – because we're changing the density then – okay, thank you.

CHAIR GONZALES: I've got a couple of questions, Dominic. How many of the structures on this property were permitted and what were the permits for?

MR. SISNEROS: There's an existing permit for the residence. There are permits for all structures. The only permit that was not pulled was the conversion of the accessory structure into a dwelling which is the property that is located northeast.

CHAIR GONZALES: Okay, so there was a studio that was permitted, a small one at 900 square feet. Then there was the garage; was that close to the studio or were they both together?

MR. SISNEROS: No, it was separate.

CHAIR GONZALES: And those have permits.

MR. SISNEROS: That is correct.

CHAIR GONZALES: And then which was the one that was converted to a dwelling?

MR. SISNEROS: The structure that is northeast, the one just above the residence up to the right, that one was converted into a residence at some point.

CHAIR GONZALES: And that was not with a permit.

MR. SISNEROS: That is correct, unpermitted.

CHAIR GONZALES: How does that work out to try and get an after-the-fact permit if this is approved?

MR. SISNEROS: So they would have to provide a site plan. They would have to come in just for an after-the-fact permit for basically an internal remodel.

CHAIR GONZALES: But that did not comply with density of the property.

MR. SISNEROS: That is correct.

CHAIR GONZALES: So, we're kind of down to having one residence and they can have a studio and a garage; is that it? And what other buildings are on that property? I saw there was a shed.

MR. SISNEROS: If this was a vacant piece of property this property right now by code would be allowed one single family residence, one accessory dwelling unit and accessory structures, as many accessory structures as they desired. With the way that this currently stands with the existing structures, that's why they need the variance because the converted dwelling does not meet ADU requirements therefore it couldn't be considered as an accessory dwelling unit and that's why they're asking for the density variance.

CHAIR GONZALES: And that accessory dwelling exceeds whatever additional dwelling unit in square-footage; is that correct?

MR. SISNEROS: It doesn't meet any accessory dwelling standards as it's considered two-storey because it has a loft and it's over on square footage.

CHAIR GONZALES: Any other questions of staff?

MEMBER PIERARD: Yes, I just want a clarification.

CHAIR GONZALES: Wendy.

MEMBER PIERARD: So on that dwelling, the studio was permitted and what wasn't permitted was the conversion.

MR. SISNEROS: That is correct.

MEMBER PIERARD: Okay.

MEMBER TRUJILLO: And, Mr. Chairman, I have one other questions, sorry about this. So an accessory dwelling is obviously where somebody can live and reside with a bathroom and a kitchen. But an accessory structure in the County code you can have unlimited or is there a limit to how many of those structures you can have? I mean somebody could construct another two garages if they chose to?

MR. SISNEROS: That is correct. As long as they're meeting setbacks, they're outside of any easements or flood zone or anything like that, that is correct.

CHAIR GONZALES: Erik.

MEMBER AABOE: We are just hitting you with questions. Can an accessory structure be two stories?

MR. SISNEROS: An accessory structure can be two stories as long as it meets height.

MEMBER AABOE: And so does anyone know the logic that an accessory structure or as many accessory structures that are desired can be two stories but an ADU has that limitation; is that something that is being considered? This stuff is tripping us up and I think since we opened –

MR. SISNEROS: The idea behind an accessory dwelling unit is that it looks subordinate to the primary residence. As for why the accessory structures don't fall

under the same category as far as looking subordinate to the primary residence, that I don't know.

MEMBER AABOE: Because of barns.

MR. YUTZY: Mr. Chair, Commissioners, every time you all make these comments about one of these things, I actually write them down and they are being looked at as part of the rewrite of the SLDC.

MEMBER AABOE: I really appreciate that because that's really why I'm talking about them. Thank you.

CHAIR GONZALES: Thank you, Erik. If there are no other questions of staff, is the applicant here? Please step forward.

[Duly sworn, Beverly Todd, testified as follows:]

BEVERLY TODD: Beverly Todd, 83 Apache Ridge Road, Santa Fe. Thank you, good afternoon to the Planning Commission. Thank you for letting me present to you pertaining to the request for a variance to the density of the art studio on my property.

The art studio is used for overnight artists in residency program and I applied for the short-term rental application last year at the time that the ordinance was passed and at that same time then I also applied for the business license. And both of those were applied for on May 23, 2023. At that time when we put that package together that is when the County discovered that that building was not permitted as you just discussed and it was – the original permit was issued in 1998 by the owner Elias Rivera. From my understanding from a neighbor it was converted around 2003, they believe. So Rivera owned the property and it went into foreclosure and went back to Northern Trust Company, the foreclosing bank, and that is who I purchased the property from.

A couple of details on the variance. Section 10.4 says, Accessory dwelling or a portion of the structure used for accessory dwellings cannot exceed 50 percent of the heated floor space of the principal residence up to 1,400 square foot. And the art studio in its entirety is about 2,300 equal to the size of the home. But the portion of the art studio used for dwelling for the residents is 900 square feet and the remaining 1,400 is the open art studio. The second point in that section is that accessory dwelling can only be a single storey. The art studio does include sleeping loft that is open to the studio below. It has 7 foot ceilings and rather than a full second storey the loft shares the same roof line, the same interior space as the full building. So there's no really bump up to a full second storey.

A little bit of the background. I purchase the property in September of 2019 as a home and art studio for myself plus my intent was to have a second space that would be for other artists to come in residence that would generate passive income. This property in the real estate listings was listed as main house with two professional studios, with one of those studios operating as a guest house. And at that time and now, that art studio is the exact same configuration, the 2,300 square foot and the 900 square foot of living space. The previous owners used it similar to what I do. They held workshops and art shows, the rented out the space, hosted guests and then it was Mr. Rivera's primary art studio.

At the time of the purchase in 2019, the short-term rental licenses was not in effect therefore I was not made aware of that the building on the property was not properly permitted and could not be used as a short-term rental.

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My intended use of this property is, #1 for my own art practice. My main occupation is as a professional artist. I'm a painter. I paint in the studio. I hold art shows in it, open houses and invite collectors in. And then the secondary use of that studio is the artists in residence program. And that means artists come in and they stay and they live in the studio. They live there. They get up in their pajamas, paint in the morning, drink coffee, paint all day. And they choose this place, the studio, because it is that quiet solitude. It is a place they can go deep in their work. Often they are there preparing for an art show and because the place is so big it allows them to paint extremely big. The type of artists that I attract come for that space and they will paint on large canvases that can measure anywhere up to 7-foot wide by 10-feet long. Also, I teach and coach the artist when they're in residency, when they're here working on a one-on-one. So that's another source of income for me is the coaching/teaching of the artist while they stay there.

I don't offer short-term rentals in the traditional sense of Airbnb and I don't intend to do that. The program provides a residency opportunity for just one to two artists at a time and they typically stay one week to one month. I've been hosting artist in residence in there for the past three years and by design the number is small because I'm one of those introverted people who like their quietness and when there's other people on the property it's really hard for me to be creative. Definitely I've designed it to have so few people there but just enough to get the income. And I do have my artist in residence by year. In 2022 I had five artists staying residence for a total of 30 nights short term and I had one artist who stayed 30 nights long term. In 2023 I had three artists staying for a total of 42 nights short term and there was no long term and then in 2024 I had five artists for a total of 35 nights short term and one artist for 31 nights which is long term.

So at the age of 66, my goal when I moved here was to be able to create and go deep into my art and to be very self-sufficient. Really I intend to keep this as a small business that I can maintain and operate on my own, setting up, cleaning, doing everything. So it's truly a live-work space for myself and it's also the opportunity for me to grow in my own art practice.

And there were a lot of questions as to what the building looked like so I have a short video. So if we could show that. It's a walk through the property. [video was shown] So there you get a visual of what the building looks like on the outside and the inside. And I want to thank the Hearing Officer Marilyn who suggested placing a wall in the studio to separate that living area from the larger studio space. I followed up on with Bill Roth who is the owner of Modern Design & Construction and Bill has worked on this building so he knows the structure intimately. We considered a couple of options. The first one was putting a wall up directly underneath the loft but that reduces the total living space to 450 square feet which doesn't leave any room for any bed or sleeping area. As you can see the exterior door comes through the middle and that loft area underneath it is not very wide. It also would have support beams that would take up space so the 450 square foot is not big enough for a residence. And the second option we looked at was building out the wall further into the studio space to allow for a sleeping area on the first floor which takes away a great amount of space from the studio leaving an inadequate area for the working artist. So the contractor estimated the cost of both of these options around \$50,000 and that large price tag is due to the removal and disposal of the loft, building an 18-foot wall and that's a really high space, and there would be a

lot of rewiring of electrical and installation of lights, we'd have to relocate the 70-foot art door, there would be additional interior doors, repainting the walls, repatching the flooring and the construction would take three to four months. So the wall price tag alone is cost prohibitive and the income generated from the artist residency program is about 7,000 per year. That would mean it would take me more than 7 to 8 years to pay off the \$50,000 loan plus interest even if I could get the loan. And in those 7 to 8 years I wouldn't have any income coming in and that money goes to the mortgage, insurance, utilities and other expenses and that's a financial hardship that I would not be able to undertake.

So talking a little bit about the public interest of this request. The variance is not contrary to public interest. Number one, the property is very well maintained. In 2019 when I built [sic] a new septic was put in and we worked with the Department of Environmental Control so it is permitted and adequate for the size of the two buildings. It serves both the house and the studio. The well system was inspected and tested and metered at that time also. So all of the water and septic are in compliance with everything required by law at this point. Number two, we use conservation practices as part of the programming and all of the artists are taught about conservation and we use a reclamation program that recycles the water that is used in the art. Number three, because the number of artist in residence is so small, there's residents there are less than 60 nights per year and that I live alone there, the property uses less water than a two person household. The property is well maintained with an upgraded driveway and dedicated parking. And as a side note, my property does not create excessive traffic. As I mentioned before, I'm single living there and when the residents are there there's less cars up and down the road as there would be in a two-person family. And number five, the art studio sits in the middle of the property on 5 acres. It's away from adjoining properties and homes which means there's no noise or traffic. None of my adjoining neighbors can physically see the property and I've been in contact with my immediate property owners on all four sides and they are supportive and several of them have submitted letters of support. And then finally, number six, [inaudible] studio is used for residency is about 60 days or two months. So mainly the artists stay in the studio. They're working and they kind of want to be left alone. They do venture into town for grocery shopping and the galleries.

So I do want to point out the precedence which Dominic referred to. The Board of Commissioners approved a similar density variance to this. It was approved on February 13, 2024 and it was the request of Francis Phillips and his property is at 35 Mescalero Trail which is about 1/3 of a mile up Apache Ridge Road, just up my way. In fact, it is the first place I stayed when I started coming to Santa Fe to paint. And he has two dwelling units of similar size on 6 acres. And like Francis Phillips my property was listed and sold as a main house, a guest house, and the property was also inspected and assessed by the Santa Fe County as a main house and guest house and at no time in past years did anyone recognize this, bring it up, try to address the issue or fix it prior to now.

And I just want to read the real estate listing to you, This compound is comprised of an adobe main house, two professional studios, the larger of the two studios also functions as a guest house as it includes a full kitchen and bath and is complete with refrigerated air. The property was also appraised and valued by the County as an art studio/guesthouse with two bedrooms. And I pulled a screen shot that is there and how it

is listed right now on the Assessor's webpage. And I was able to go back by site records, I could go back as far as 2011 that is on the webpage to show that that is how it appeared on the Assessor's report.

The impact and the undue hardship – I purchased the property out of foreclosure in 2019. It had sat empty for more than a year. It was neglected. I invested more than \$125,000 in maintaining and renewing and upgrading this property. I increased the property's value as well as its tax base. And as all County citizens we are allowed to use our property to support ourselves in operating small businesses including small art businesses. And this in turn does contribute to the livelihood and economy of the overall county. Granting this variance is essential for the continued viability of my small art business. Without the variance I'll be unable to fulfill the core functions of my business significantly impacting my ability to operate. My art business is my only income. And the strict application of the code will result in an exception financial hardship as undue. It will result in the loss of my art business and income.

So in closing, I just want to summarize a few things. Number one, I purchase the property including the art studio/guesthouse as is well before the short-term rental code went into effect. I did not create the issue and I am working with the County to remedy this. Number two, the portion of the art studio used for dwelling is only 900 square-foot which falls within the guidelines of a living space being 50 percent smaller than the main home and not exceed 1,400. And although there is no wall separating the areas, the renovation to build the wall will decrease the total space available to the studio and is cost prohibitive at \$50,000.

And I agree to all the conditions that Dominic outlined in the report – building no additional structures, existing structures permitted and actual those all are and all of those permits were in the application package. The OSE and the NMED permits have already been provided and those were in the application packet and those are all current. And acquiring a Santa Fe County business license which was applied for in May of last year, and that's been on hold by the County until this is settled. And, then finally denying the variance or requiring renovation are truly an undue hardship on a small business like myself.

I remain committed to being a positive presence in my immediate neighborhood and working with the County in any way possible.

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

MEMBER TRUJILLO: I have some. Thank you, Mr. Chairman. Thank you for that presentation, Ms. Todd. So, you mentioned that you had already gone to the New Mexico Environmental Department, is that what I heard earlier?

MS. TODD: Yes, as part of the sale of the real estate the conditions are that your septic has to be inspected. And when they did that they found the existing septic was falling in/caving in. So the seller was required to build a brand new septic and that was done in the fall of 2019 and they were permitted with the environmental agency.

MEMBER TRUJILLO: So at that time then all of these structures already existing and they were already taking into consideration when the new septic system was installed.

MS. TODD: Right and in fact they made it extra big. I have to look to see what kind of gallons and what kind of holding tank it is.

MEMBER TRUJILLO: Okay, that's fine because they'll look at the bathrooms and they'll size it appropriately at least I'm sure – they permitted it and I'm sure it was done correctly. So that sounds really, really good.

MS. TODD: That was a bonus that I got a new septic.

MEMBER TRUJILLO: And you said that you've been to the State Engineer's Office as well. They had the well inspected in 2019.

MS. TODD: Right. I did all the well permitting. I went in and did all of that and it was inspected and everything.

MEMBER TRUJILLO: Okay. And I did see the pictures and the art so the real question I have for you, and I think some of that was your art, where can I purchase a piece?

MS. TODD: You can go to my website.

MEMBER TRUJILLO: Okay, thank you.

MS. TODD: No, none of that was my art. That was a group of artists that were in in April and they were so prolific. They just blew me away.

CHAIR GONZALES: Mr. Mendoza.

MEMBER MENDOZA: Yeah, I have a real quick question because I noticed that you say in here that you applied for the County business license and it's been over a year; do you know why it's on hold?

MS. TODD: What I was told at first was they put it on hold pending this outcome.

MEMBER MENDOZA: Oh.

MS. TODD: That was what I was told and may be misunderstanding it but I think that's a good question for the County.

MEMBER MENDOZA: I thought they might have given you some kind of feedback. Thank you.

MS. TODD: But I've been operating under the temporary short-term rental permit.

CHAIR GONZALES: Mr. Pava.

MEMBER PAVA: Thank you, Mr. Chair. Thank you for that detailed presentation. I wanted to ask regarding road maintenance, this is an issue that has come up in many of the correspondence to the Commission, the situation of the road and that some people participate and that some people don't participate. Do you have any thoughts on that?

MS. TODD: Yeah, in fact, I didn't read it when I was reading my report but in my handout I addressed that. So 83 Apache Ridge Road has a voluntary group for voluntary road maintenance and they post a sign at the bottom of the hill that says, please pay your road dues. There's no notice that goes out. There's no – you don't know who to send it to. I had to ask questions to find out who it was. So since I moved in I've paid it every year until this last year, I missed it. So some of my neighbors came to the initial hearing and I met with them afterwards and said, Hey, let me help you. I'm really good at marketing and I'm really good mailing things. Let's send out a mailing every year to make sure all the dues are paid. And one of my neighbors who is involved in the road maintenance fund said only 30 percent of the property owners pay into the road maintenance pool. So I thought, you know what, we can fix that and make it better.

MEMBER PAVA: Thanks for the clarification.

MS. TODD: And if you've been up Apache Ridge you know it needs maintenance.

MEMBER PAVA: That's good to know for the record. If the Commission were to consider an approval of this variance, conditions of approval are typical and as you saw there are already four suggested by staff if that was the situation with the Commission granting approval, would you consider a condition that limits the nights per year and if so how many nights per year in the studio –

MS. TODD: Well, yeah, I would consider it definitely depending on what it is because as I get older I reduce down the number. Every year I've reduced down or tried to reduce down the number of artists in residency because it takes work. So I'm not intending to expand any capacity. Sixty nights a year is not much.

MEMBER PAVA: And I noticed – so I caught that figure 60; is that a reasonable figure if there was a condition?

MS. TODD: I would want it to maybe go up to 90 because sometimes, you know, if I have somebody that wants to book a week and I'm already at 60 days and they can't do 61. I would want to have some flexibility but it is something I would definitely discuss and explore.

MEMBER PAVA: So basically 90 is a quarter of the year.

MS. TODD: Yeah.

MEMBER PAVA: Okay, and reading your report quickly, the details in your attempts with a contractor to kind of get some estimate of the cost of creating a separate entry residence from the studio, I get that. If this variance were to be granted, if there were a condition limiting say 40 percent of the existing floor space with no new additions to that building is that something that you are – to me that seems to be the existing situation.

MS. TODD: Tell me again what –

MEMBER PAVA: That's 900 divided by 2300 is like 38 percent, I think.

MS. TODD: The total studio is 2,300. The current living space is 900 square feet. I wouldn't expand that, no.

MEMBER PAVA: Yeah, okay. Thank you, I appreciate that.

CHAIR GONZALES: Thank you, Mr. Pava. Carl.

MEMBER TRUJILLO: Mr. Chair, just one quick question on the recommended conditions, #2 says all existing structures shall be permitted with Santa Fe County. Staff, and maybe I'm just reading this incorrectly but as I understood it all the buildings were permitted except maybe possibly one but as I read this it makes it sound like none of them are permitted; so is this language correct?

MR. LOVATO: Mr. Chair, Commissioner Trujillo, it should actually state that the after-the-fact permit should come for the actual remodel of the actual additions or something as such.

MEMBER TRUJILLO: Oh, okay. Because it seems like it could put more burden on this.

MS. TODD: All the existing current permits were provided in the packet.

MEMBER TRUJILLO: Yeah, I just want to make sure we get the language correct so there's more pressure on you or more work on you that is needed. So we could amend that in some way to say that. Okay.

And then, Mr. Chairman and staff, I don't know the short-term code very well but I don't think we have the authority as a board to limit the amount of nights in any case on any rental; do we? I would hate to hamstring somebody with that. I mean if her business grows.

ROGER PRUCINO (Asst. County Attorney): Thank you for the comment. Mr. Chair and member Trujillo, I can't say with certainty that you don't have that authority but on such short notice I would be much more comfortable not imposing that type of limitation. That is an issue that really does relate more to the STR process itself and the question before you, although you do have some flexibility to impose conditions, the issue is really whether the variance is appropriate. And I'd prefer to avoid issues of jurisdiction and propriety by choosing what could be considered limitations not based on any real criteria.

MEMBER TRUJILLO: Okay, thank you.

CHAIR GONZALES: Thank you. Mr. Mendoza.

MEMBER MENDOZA: I want to make a comment. The video really helped for us to be able to see what the property looks like and what you're doing out there and I just wanted to say, thank you to whoever put the video together.

MS. TODD: Me.

MEMBER MENDOZA: But also I think what you're doing captures the spirit of what Santa Fe is all about.

MS. TODD: Thank you.

MEMBER MENDOZA: And I wanted to thank you for doing stuff like that.

MS. TODD: Thank you.

MEMBER MENDOZA: Thank you.

CHAIR GONZALES: Erik.

MEMBER AABOE: Thanks, Mr. Chair. It's not addressed in any conditions, I read the technical advisory committee report and as they are wont to do, the Fire indicated that there would need to be, and correct me if I'm wrong, there would need to be widening of the driveway and turnaround. And I'm not sure because this would be granting a variance. It's not additional work other than the after-the-fact permits. So maybe I'm just confused on my cases but you've got a 10-foot wide driveway and a lot of trees would have to come out to make a 14-foot wide driveway and you'd have to put a 60-foot hammerhead in somewhere which is –

MS. TODD: Is the hammerhead the turnaround?

MEMBER AABOE: Yeah, either turnaround or three-point turn thing. And I'm trying to understand – was I mistaken in Renee indicating that or I just don't see the touch point the County would have in an after-the-fact permit to do a fire inspection to make sure that the work that is done meets Fire. Am I off base or is that just a disconnect?

MR. YUTZY: Chair, Commissioners, when she applies for the after-the-fact permit, Fire will have to do an inspection. Fire also does an inspection when it comes to business licensing and so that will be done and it will be determined then does she truly need it. The TAC letters are more of a generalized you could be looking at worst case scenario this. And so as she applies for the ATF it will be inspected by Fire and they will approve or deny and make recommendations on what needs to be done.

MEMBER AABOE: Great, thank you very much. And I just want to mention that that is significant the 14-foot wide and actually for the trucks to turn around is a relatively big deal. So I just want to point that out, thanks.

CHAIR GONZALES: Thank you. Any other questions of the applicant? If not, this is a public hearing are there any member of the public wishing to speak for or against this case, please step forward.

MR. YUTZY: Chairman, there is nobody on line.

CHAIR GONZALES: I will close the public hearing. What are the wishes of the Commission?

MEMBER PAVA: Mr. Chair.

CHAIR GONZALES: Yes.

MEMBER TRUJILLO: Oh, Mr. Chair.

CHAIR GONZALES: Mr. Pava.

MEMBER PAVA: Thank you, Mr. Trujillo, Mr. Chair. I was prepared to offer a motion in regard to the case, if I might. In the matter of case 24-5060, Beverly Todd, density variance, I recommend approval of the variance subject to the findings of fact and several conditions which I would elaborate if there is a second to the motion.

CHAIR GONZALES: Thank you. Do we have a second?

MEMBER TRUJILLO: Mr. Chairman, I didn't quite catch the conditions. The four conditions that are listed.

MEMBER PAVA: Yes, there would be those four conditions and there would be a condition concerning the primary use of the structure and limitations on its size, that no further addition to that structure would be considered, and limiting the number of nights per year if it is permitted as an STR to 90 nights per year.

MEMBER TRUJILLO: Mr. Chair, I think the other condition that I brought up about item number two, that it would just be an after-the-fact permit for the only structure that is not permitted or something that staff deems acceptable rather than the way it is written.

If staff believes that this is written correctly and they're just going to be doing the after the fact for the one unstructured [sic] building but it reads like everything is unpermitted to me.

MR. LOVATO: Mr. Chair, it would be that it would be an after the fact for the remodel.

MEMBER TRUJILLO: Okay, great. Then amend that language on number two to state that.

MR. LOVATO: Mr. Chair, Commissioner Trujillo, that is correct.

CHAIR GONZALES: Jeremy.

MEMBER MIER: So it's my understanding that we cannot add another stipulation saying 90 days is the maximum that she can operate the STR; is that correct, Roger?

MR. PRUCINO: I did indicate that that was my preference. We've discussed the issue and technically or legally the purpose of this Commission, the Planning Commission, is to enforce the SLDC and the fact of the matter is that the Short Term Rental Ordinance is not part of the SLDC and it's really part of the Business Licensing Ordinance. So I think there is a significant jurisdictional question there and I would have concerns about trying to impose that type of restriction in this proceeding.

MEMBER AABOE: Mr. Chair.

CHAIR GONZALES: Erik.

MEMBER AABOE: Thank you, Roger, and I'm wondering if it's possible that we amend the 90 night per year condition instead as a recommendation to the short-term rental and business license registration. We just recommend that there be a 90 night per year limitation that way, I believe, that's acceptable to the applicant and I think that might meet Mr. Pava's concern without overstepping our authority.

MEMBER TRUJILLO: You're stating that we recommend it. That would be separate to the code, separate from this particular case.

MEMBER AABOE: Sorry for the dialogue. We're taking an action that if we were to approve this that would be something that the folks who issue the short-term-rental permits say, yes, they meet these conditions and if attached to that is a recommendation that just that, kind of advisory – I don't know. I'm trying to thread the needle here.

MEMBER PIERARD: I'm wondering why we need that.

MEMBER AABOE: Okay. I'm fine with dropping it.

MEMBER PIERARD: Why are we trying to limit it?

MEMBER TRUJILLO: So Mr. Pava you offered that as a condition, the 90 days?

MEMBER PAVA: When you asked about conditions, I proposed the one about the square footage and no additional square footage to be added as a separate condition addressing the nights per year permitted in the STR; however, I believe that that could be mentioned as Erik was suggesting. Perhaps it could be included in the findings rather than in the conditions because the findings of fact could mention that and that's what it is. It's in the record as a finding. I think I could construe to put it in. What I've written up here as the three findings as to why this variance could be approved. I don't know if counsel wants to comment on that?

MR. PRUCINO: Including it as a finding is not binding in any legal sense so it's not exactly the same as a recommendation but in essence that's what you would be doing. I guess the question is really or the question that I have can you – how do you craft a finding of fact regarding what you consider to be a maximum usage that is coming perilously close to really drawing some sort of conclusion and I'm not sure that there is any basis in the record for that kind of finding of fact. You wouldn't be prohibited from taking that step if the entire Commission wanted to go that route.

MEMBER PAVA: Perhaps under contrary to public interest it could be referenced, the variance tests.

MR. PRUCINO: I think any conclusions, with respect to the public interest, is more likely to be considered a conclusion of law rather than a finding of fact.

MEMBER TRUJILLO: Mr. Chairman, I just want to – I understand the motion but I want to understand what is attached to the motion before we vote. And so is it the current four recommendations with number two being changed to the unpermitted after-the-fact and just the four; is that what we're voting on? Or are there others made by the person, made by Dan recommending?

MEMBER PAVA: Mr. Chair, Carl, I think dropping the reference to nights per year would be fine. I think we could either embellish the four conditions or we could add a fifth conditions that specifically states that the primary use of the structure

remain as a studio/artist studio with no more than 40 percent of it used for STR purposes. No further addition to the building will be considered.

MEMBER TRUJILLO: Mr. Chairman and Mr. Pava, I won't accept that condition. I think these four are here and I think telling somebody exactly what they can do with their building I won't accept that condition.

MEMBER PIERARD: I don't understand why we're trying to put a condition like that on.

MEMBER PAVA: Because 40 percent of 900 square feet of 2,300 square feet is rounded up to 40 percent and 40 percent clearly keeps the existing situation without modifications and then, at least in my view, it appears to be very subsidiary to the primary unit on the property so really this thing is just an ADU.

CHAIR GONZALES: If I understand this we have a motion for approval. Do we have second yet?

MEMBER PIERARD: I'm still not clear about the conditions.

CHAIR GONZALES: At some point, if we don't get a second the motion dies for lack of a second.

MEMBER PAVA: If there's no second on this at this point but I will remind the Commission that if there is a second I could state the findings to address the three variance criteria for the record.

CHAIR GONZALES: Yes, Wendy. [Member Pierard speaks away from microphone.]

MEMBER AABOE: I don't think it's recoverable. Sorry, I can't figure out how to thread the needle if we cannot do anything other than up and down or add conditions or not. If we cannot inform the STR review folks of our request – you know, we could ask the applicant to pinky swear that they would limit 90 days but I don't think that really has any legs either.

MEMBER TRUJILLO: Mr. Chairman, if there is no second to the motion, I would like to make a new motion.

CHAIR GONZALES: Let me explain. If there's not a second to Mr. Pava's motion, the motion dies for a lack of a second. Now, Carl, you're welcome to try your motion.

MEMBER TRUJILLO: I make a motion that case 24-5060 is approved for a density variance with the conditions that are listed one through four with changing number two that reads currently, that all existing structures shall be permitted in Santa Fe County to language that staff may help me out with – that the unpermitted loft area must be permitted as an after-the-fact structure.

MR. SISNEROS: So, again, it's not just the loft that was unpermitted. It's the conversion of the structure into a dwelling. So the addition of the kitchen and the bathroom as well. So I would state it would be the unpermitted interior remodel to convert the accessory structure into a dwelling.

MEMBER TRUJILLO: Okay, as Mr. Sisneros said.

CHAIR GONZALES: Okay, we have a motion.

MEMBER PAVA: I'll second it.

CHAIR GONZALES: We have a motion and a second. Do we have discussion on the motion?

MEMBER PIERARD: I'm just saying that these are hard cases. When someone buys a piece of property for a specific use and there's a history on the property and they bought it as is, they're tough. You know, this is her livelihood. They're really hard to work out and we're going to be seeing more and more of these because of the short-term-rental. It's going to be one after another.

CHAIR GONZALES: And my comments are that these are cases where the buyer did not do their due diligence. The owner of this was in foreclosure. The bank owned the building and they did not disclose to the buyer all of the conditions. The buyer did not do their inspection with the County to find out if these were permitted. It's a big financial commitment that you placed yourself in and then all of a sudden this becomes a problem. And the only recourse you have is to come to the County to try to get this matter remedied.

So we have a motion and a second.

MEMBER AABOE: Mr. Chair.

CHAIR GONZALES: Erik.

MEMBER AABOE: Mr. Chair, I just want to replay the greatest hits. I would urge the County to do whatever it can to bring in the realtor community. You know, our first case today, Mr. Sneesby who bought his property with the realtor indicating that he had agricultural water rights and that was incorrect. So I really would urge that whatever outreach that can be done so that if you're thinking of moving to Santa Fe County and you want to buy a property, stop by to the friendly folks at 100 Catron Street and learn about the property and its allowable uses before making that down payment. So I'm just going to keep saying that until we stop getting these kind of unfortunate situations. But that's all I want to say. Thank you.

CHAIR GONZALES: I agree with you, Erik. We have a motion and a second. Those in favor.

The motion passed by unanimous [7-0] voice vote.

MR. YUTZY: Chair, before we move on, I need to move you up to item four, the consent agenda. You all took a vote without a motion or a second. So I need you all to revote on that.

4. Consent Agenda

A. Case #24-3013 Ramon Martinez, Applicant, Ralph Steele, Appellant, is appealing the Santa Fe County Land Use Administrators Administrative Decision regarding an Open Space Relocation request. The property lies within the Residential Fringe District (RES-F). The property is located at 6 Vista Los Alamos, 10 Vista Los Alamos and 15 Vista Los Alamos within Township 16 North, Range 8 East, Section 25 (Commission District 1), SDA-2. Destiny Romero, Case Manager. Unanimous, Denied. (AMENDED)

MEMBER AABOE: I'll move to approve the consent agenda.

CHAIR GONZALES: Second.

The motion passed by unanimous voice vote.

6. Petitions from the Floor

None were presented.

7. Communications from the Commission Members

None were presented.

8. Communications from the Attorney

MR. PURCINO: I would like to say that I think Commissioner Aaboe's comment is appropriate. I'm not sure how that outreach might take place. It would be wonderful to see some sort of whether voluntary or mandated burden on real estate agents from both the buyers and the sellers side to ensure that a search is conducted to determine the permitting of all structures and compliance in general. We haven't had substantive in-house discussions on how that outreach might take place but that is something that we're aware of.

MEMBER TRUJILLO: It would probably take changing the law at the state legislature to do that. So it would be lobbying to, I think it would be the hand to force if wanted.

MEMBER AABOE: Mr. Chair and Roger, actually back when I worked at the County they asked me to look at their website and I think even if you put a Want to buy a property in Santa Fe County, click this button. And that might be scary to some folks but I think it would serve your work and streamline, just to have a process, if you created a handout to say, what's the property here's what's allowed and here's what's not allowed, that kind of thing. I think just some simple notification so that the potential buyer could do some research if they so chose. Thanks.

MR. LOVATO: Mr. Chair, Commissioners, we do reach out to the Association of Realtors. I have attended several meetings and informed them about our procedures. We are currently working on a website to clarify a lot of the issues and how to videos. That will be coming forward.

9. Matters from Land Use Staff

MR. YUTZY: Yes, Chair. I would like to introduce Ms. Alexandra Ladd. She is our new director of Growth Management.

CHAIR GONZALES: Thank you.

MS. LADD: Thank you, Mr. Chair, members of the Commission. I'm really excited to be here. This is the third week in this position and I'm still drinking from the fire hose but I'm really excited and appreciative of the great staff that I walked in to learn from and looking forward to supporting them and addressing some of our challenges as a team. I come to this position from the City of Santa Fe. I was an affordable housing planner there for six years after I graduated from the UNM School of Planning and then I became a consultant and wrote strategic housing plans for different

communities around the state. And then I went back to the City in 2012 and left as its director of affordable housing.

I will say this, I am thrilled to be nearing the end of a Planning Commission meeting and the sun is still out. This is something I think almost never happened, ever, at the City's planning commission. I'm looking at Commissioner Pava because we spent some time at those meetings together.

Thanks so much. I am just learning everything right now and I'm looking forward to getting to know all of you better and thanks so much.

CHAIR GONZALES: Thank you.

10. Next Planning Commission Meeting: September 19, 2024

11. Adjournment

With no further business to come before this Committee, Chair Gonzales declared this meeting adjourned at approximately 6:16 p.m.



ATTEST TO:

KATHARINE CLARK
SANTA FE COUNTY CLERK

Approved by:

J.J. Gonzales, Chair
Planning Commission

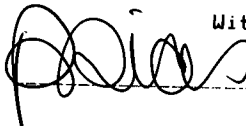
Submitted by:

Karen Farrell, Wordswork

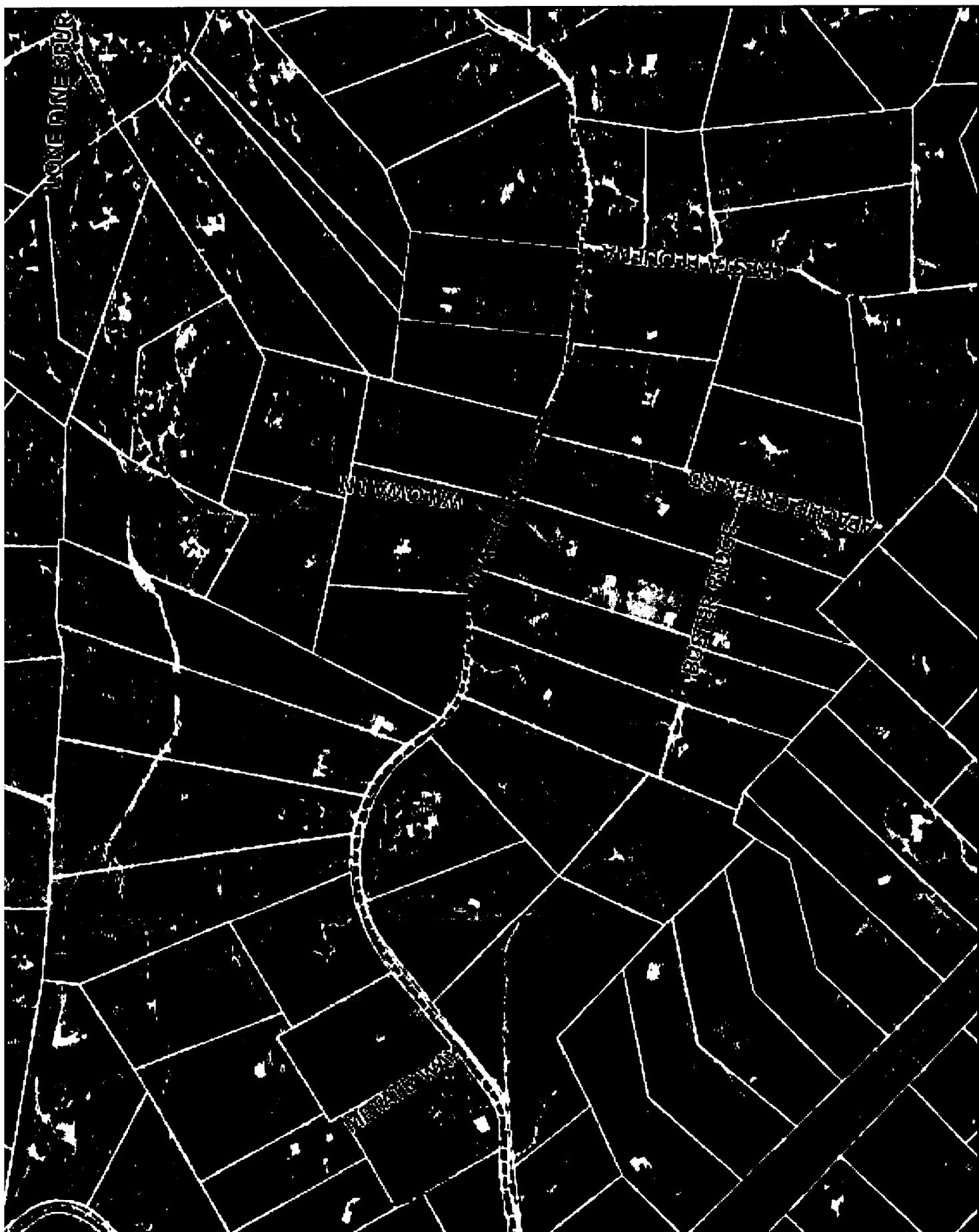
COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss PLANNING COMMISSION MI
PAGES: 45

I Hereby Certify That This Instrument Was Filed for
Record On The 20TH Day Of September, 2024 at 07:22:13 PM
And Was Duly Recorded as Instrument # 2042222
Of The Records Of Santa Fe County



Deputy  Witness My Hand And Seal Of Office
Katharine E. Clark
County Clerk, Santa Fe, NM

SFC CLERK RECORDED 09/20/2024

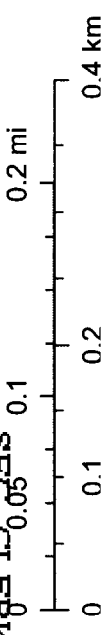


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Santa Fe County – Planning Commission Presentation.

August 15, 2024

Good afternoon. Thank you to the Planning Commission for hearing this request. I'm Beverly Todd, owner of 83 Apache Ridge Road.

I am requesting a density variance pertaining to the Art Studio – which is a secondary building – on my property.

As the art studio is used for over-night artist residency, I applied for the Short-Term Rental license (when it went into effect) and business license on May 23, 2023. At that time, the county discovered that the art studio was not conforming per the 1998 permit held by previous owners Elias Rivera and Susan Contreras (who owned the property until it went into foreclosure in 2018-2019). I purchased the property from Northern Trust Company (the foreclosing bank).

Specific Details of the Variance:

Section 10.4 of SLDC pertaining to request:

- Accessory dwellings (or a portion of the structure used for dwelling) cannot exceed 50% of the heated floor area of the principal residence, up to 1,400 SF.
The Art Studio is 2,300 SF, while the main home is also about 2,300 SF.

The portion of the Art Studio used for "dwelling" is about 900 SF (the remaining 1,400 SF is open art studio).

- Accessory dwellings can only be single story.
Art Studio includes a ½ story sleeping loft that is open to the studio below, with 7' ceiling. This is not a full story, but rather a loft that shared the same roof line as the entire building.

Background:

I purchased the property in September 2019 with the focus a home and art studio for myself, plus a second live-work space for artists that would generate passive income.

This property was listed as a main house, with 2 professional art studios with one of those studios operating as a guest house.

At that time (and now), the Art Studio consisted of 2,300 SF total – with 1,400 SF dedicated art studio, and 900 SF of living (kitchen and bath on 1st floor, open sleeping loft above). The previous owners held workshops and art shows, rented out the space, hosted guests, and also used it as the primary art studio by Mr. Rivera.

At the time of purchase in 2019, the Short-Term Rental licensing was not in effect. Therefore, I was not made aware that the building was not properly permitted and could not be similarly used for artist residency.

Intended Use

My intention is to use the Art Studio for...

1. **My own art practice.** I'm a painter and paint in the studio, as well as host open studio for collectors.
2. **Artist in Residence Program**

The Art Studio hosts artist in residence. Which means they live in the studio and create in the studio. Often, they are here preparing for an art show, or creating a new body of work. The quiet solitude of the place allows them deep work to create. They choose this studio because of the ability to focus and do deep work, and because of the large space allows them to paint big. Most of the artists are painting on large canvas that can measure up to 7-ft wide by 10-ft long.

Also, I teach and coach the artists while they are here, working with them one-on-one in the studio.

I do not offer short-term rentals in the traditional sense of Airbnb. Nor do I intend to. The program provides residency opportunities for 1-2 artists at a time typically staying from one week to one month.

The Art Studio has successfully hosted artist-in-residency the past 3 years. By design, the number is small. The studio is not used year-round. My intent is to support individual artists, and to generate passive income... without generating more work for myself.

Artist in Residence by Year

- 2022 – 5 artists for a total of 30 nights STR. And 1 artist for 30 nights long term.
- 2023 – 3 artists for a total of 42 nights STR. No long term.
- 2024 – 5 artists for a total of 35 nights STR. And 1 artist for 31 nights long term.

I greatly value my privacy and the solitude of working in my own art practice, therefore I greatly limit the time that other artists are on the property.

At age 66 my goal is to live and work here on my own and to be self-supporting. I maintain this as a small business so that I may do all the work of maintaining the property, cleaning buildings, and setting up myself.

This truly is a live-work property for myself. And it's also the opportunity to grow my own art practice... which is the main reason I am here in Santa Fe -- To paint.

Walk Through

I'd like to take you through the building so show the interior space and use, and how the studio is used for art residency.

(VIDEO)

Wall

I want to thank Hearing Officer Marilyn for the suggestion of placing a wall in the studio to separate the living area from the studio. I followed up on this working with contractor Bill Roth, owner of Modern Design + Construction. Bill has worked on the building and is intimately familiar with the structure.

Several options were considered including

1. Putting up a wall directly under the loft. That reduces the living space to about 450 SF. That does not leave room for any bed or sleeping area as the exterior door, interior door into studio, support beams, and storage take up space.
2. Building out the wall further into the studio space to allow for a sleeping area. This takes away space from the studio leaving it inadequate for the large work of the artists.

The contractor has estimated the cost of both options to be about \$50,000. That large price tag is due to – removal & disposal of loft, building an 18-ft wall, rewiring of electrical & installation of lights, addition of interior doors, repainting of all walls, patching floor. The construction will take 3-4 months.

The wall price tag alone is cost prohibitive.

The income generated from artist residency is about \$7,000 per year. That would mean it would take more than 7-8 years to pay off the \$50,000 construction + interest.

In those 7-8 years, I would not be making residency income that goes towards the mortgage, insurance, utilities & other expenses necessary to open the doors.

This is a financial hardship that I cannot undertake.

Public Interest:

This variance is not contrary to the public interest.

1. Property is well maintained with a new (2019) septic system that serves the house and studio, and well water (inspected & tested 2019). *Note: There is only one septic system on the property (not two septic systems as stated in the report by Manuel Olivas).*
2. Conservation practices are used as part of the programming, and artists are taught about water conservation & reclamation using a special water recycling system.
3. Because the number of artist-in-residents is so small (in residence less than 60 nights per year), and I live alone, this property uses less water and septic than a 2-person house hold.
4. The property is well maintained with an upgraded private driveway and dedicated parking on-site to accommodate artists.
 - a. As a side note, my property does not generate excessive traffic on the road. I'm a single living here, and even adding in the small number of guest artists, road use is much less than a 2-person family.
 - b. Apache Ridge Road is maintained by home-owners and payment to road maintenance is voluntary. I have donated to that fund, but have miss the past year as no reminder or request for funds has ever been sent. I've offered to help the organizers to increase the amount of road funds collected by sending out annual notices so that all homeowners participate, and so that they know how much to contribute and where to send the funds.
5. The Art Studio sits in the middle of the property on 5 A., away from adjoining property/homes which means no noise or traffic issues. Property owners on all 4 sides are aware and supportive.
6. The number of days each year the Art Studio is used for residency is about 2 months total. The artists mostly stay in the studio working in solitude on their art. They do venture into town for food (grocery & restaurant) and tourism activities, including visiting galleries & shopping.

PRECEDENCE

I would like to share a precedence set by the Board of Commissioners in approval of a density variance similar to this. The density variance was approved by the Board of Commissioners in a unanimous vote on Feb. 13, 2024. The Board approved the request of *Manuel Olivas* for a density variance to allow for a larger size on a 5 A parcel. This

Like Francis Phillips, my property was listed and sold as a main house and guest house, and the property was inspected and assessed by Santa Fe County as a main house and guest house. At no time did anyone bring up the issue, nor correct the issue.

The real estate listing states:

This compound is comprised of an adobe main house, two professional studios and a wood-working shop. The larger of the two studios also functions as a guest house, as it includes a full kitchen and bath and is complete with refrigerated air.

The property appraisal/property valuation also shows the art studio as a “guest house” with 2 bedrooms. I was able to go back through the assessor web site records to show that since 2011 (as far back as I could find records online) the inspector has seen the art studio/guest house exactly as it sits today.

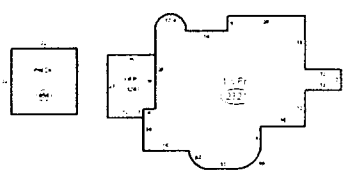
SF County Assessor Property Detail & Sketch below (web site screen shot):


Property Detail and Sketches (below) are current as of **Monday, May 13, 2024.**

LAND DETAIL

Extension	Line	Type	Square Footage	Acreage
L01	1	Residential	217800.00000000	5.00000000

PRIMARY STRUCTURES DETAIL

Extension	ID	Type	Square Footage	Year Built	Bedrooms	Sketch (click image to download)
R01	D	Dwelling	2321	1979	3	
R01	1	Open Frame Porch	324			
R01	2	Wood Deck	484			
Total Square Footage			3129			

Extension	ID	Type	Square Footage	Year Built	Bedrooms	Sketch (click image to download)
R02	D	Dwelling	2376	1997	2	
R02	1	Open Masonry Porch	320			
Total Square Footage			2696			

SFC CLERK RECORDED 09/20/2024

Impact/Undue Hardship

In September 2019, I purchased the property out of foreclosure from a bank. It had sat empty & neglected for more than year. I've invested more than \$125,000 in maintaining and renewing the property. This work has increased the property's value & tax base.

As all county citizens, we are allowed to use our property to support ourselves – in operating small businesses including art businesses. Which in turn contribute to the livelihood & economy of the county.

Granting the variance is essential for the continued viability of my small art business. Without the variance, I am unable to fulfill the core functions of the business, significantly impacting my ability to operate. My art business is my only income.

The strict application of the code will result in exceptional financial difficulty and is an undue hardship. The strict application will result in the lost of my art business and income.

In close, I'd like to summarize:

- In September of 2019, I purchased the property including the Art Studio/Guest House as it sits today, well before the Short-Term Rental code went into effect. I did not create the issue, and I am working with the county to remedy this.
- The portion of the Art Studio used for "dwelling" is about 900 SF (the remaining 1,400 SF is open art studio), which falls within the guidelines of being 50% smaller than the main home, and not exceeding 1,400 SF. Although there is no wall separating the areas, the renovation to build a wall will decrease total space available for the studio, and is cost-prohibitive at \$50,000.
- I agree with the conditions recommended in the county's report issued by Manuel Olivas, Development Review Specialist.
 - building no additional structures and no further division of land,
 - existing structures permitted, those permits have already been provided in this variance application package,
 - OSE and NMED permits, which have already been provided in this variance application package,
 - acquiring a SF County Business License. The business license was applied for on May 23, 2023, and has been on hold by the county.
- Denying the variance or requiring renovations are an undue hardship, and will result in the loss of my art business and income.

I remain committed to being a positive presence in my neighborhood, and to working with the county.