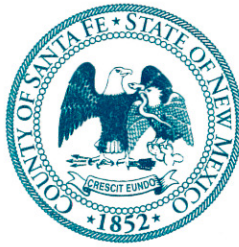


Danny Mayfield  
Commissioner, District 1

Virginia Vigil  
Commissioner, District 2

Robert Anaya  
Commissioner, District 3



Kathy Holian  
Commissioner, District 4

Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

## MEMORANDUM

**DATE:** January 10, 2012

**TO:** Board of County Commissioners

**FROM:** Jose E. Larrañaga, Commercial Development Case Manager *JEL*

**VIA:** Jack Kolkmeier, Land Use Administrator *JK*  
Shelley Cobau, Building and Development Services Manager *SC for SC*  
Wayne Dalton, Building and Development Services Supervisor *WD*

**FILE REF:** CDRC CASE # V 11-5320 Mauricio Solis Variance of Family Proper

---

### ISSUE:

Mauricio Solis, Applicant, requests a variance of Article II, Section 4.3.2c (Family Proper) of the Land Development Code to allow the transfer of land as a Small Lot Family Transfer from sibling to sibling. The property is located within the Traditional Historic Community of La Cienega, at 22 Rancho Sin Vaca Road, within Section 22, Township 16 North, Range 8 East, (Commission District 3).

### SUMMARY

On November 17, 2011, the County Development Review Committee (CDRC) met and acted on this case. The decision of the CDRC was to recommend denial of the Applicants request, for a variance, based on the findings presented by staff (Exhibit "J").

The Applicant requests a variance of Article II, Section 4.3.2c, Family Proper, of the Land Development Code. Family Proper is described in Article II, Section 4.3.2c, as "lineal relations up to and including the third degree. i.e. grandparent, parent, child. Step relations shall count as natural relationships so long as the step relationship is legally existent at the time of the transfer, including legal guardians who have performed the function of grandparent or parent to the person who is receiving the transferred lot" (Exhibit "B").

The Applicant states both he and his brother make payment on the property. The property is under the Applicant's name and he would like to transfer one half of the property to his brother to protect his brother's interest in the property (Exhibit "A").

Article II, Section 4.3.2b, Definition of a Small Lot Family Transfer states; “A lot created as a gift from a grandparent, parent or legal guardian to his or her natural or adopted child or grandchild or legal ward, which lot does not meet the density requirements of the Code.(These relationships are further defined below in “Family Proper”.) Any person may receive only one lot through Small Lot Family Transfer”.

Article II, Section 4.3.1b, states that the Purpose of a Small Lot Family Transfer is to permit transfers of lots which do not meet the lot size requirements of the Code from grandparents, parents or legal guardians as a onetime gift to a child or grandchild in order to provide a more affordable home site for these adult children (Exhibit “C”).

The property has been in lawful possession of the Applicant for over five years. There are currently two residences and two conventional septic systems on site. The property is served by an on-site well. The 2.5 acre parcel is located within the Basin Hydrologic Zone and is in compliance with Article III, Section 10, Lot Size Requirements, of the Land Development Code.

Staff has analyzed the feasibility of this parcel of land to be subdivided as a Small Lot Family Transfer per Code requirements. Staff has determined that if the Applicant met the Family Proper requirements, a Small Lot Family Transfer land division could be processed administratively.

Article II Section 3 (Variances) of the County Code states: “Where in the case of proposed development, it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted condition or that these conditions would result in inhibiting the achievement of the purposes of the Code, the applicant may submit a written request for a variance.” This Section goes on to state “In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified.” (Exhibit “D”)

#### **REQUIRED ACTION:**

The BCC should review the attached material and testimony presented to form findings of fact in support of a decision of approval, denial, approval with conditions or modifications or to table for further analysis of this request.

#### **RECOMMENDATION:**

The County Development Review Committee and staff have reviewed this Application and has found the following facts presented **not to support** this Application: a Small Lot Family Transfer from sibling to sibling does not comply with the definition of lineal relations as defined in Article II, Section 4.3.2c (Family Proper) of the Land Development Code; the purpose of the Code may be nullified by allowing the creation of lots, which do not meet the minimum lot size requirements, by means of a variance of the Family Proper criteria; the

Applicant has not justified a hardship as defined in Article II, Section 3 of the Land Development Code, therefore staff recommends **denial** of the Applicant's request.

If the decision of the BCC is to approve the variance, staff recommends the following conditions be imposed;

1. Water use shall be restricted to 0.25 acre feet per year per lot. A water meter shall be installed for both lots this shall be noted on the Plat. Annual water meter readings shall be submitted to the Land Use Administrator by January 1<sup>st</sup> of each year. Water restrictions shall be recorded in the County Clerk's Office.
2. A shared well agreement shall be recorded with the Plat.
3. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval.
4. No further division of either tract shall be permitted. This shall be noted on the Plat.
5. The Applicant shall connect to the County Water System when it becomes available within 200 feet of the property line.

**ATTACHMENTS:**

- Exhibit "A"- Letter of request
- Exhibit "B"- Article II, Section 4.3.2c (Family Proper)
- Exhibit "C"- Article II, Section 4.3.1b (Purpose)
- Exhibit "D"- Article II, Section 3 (Variances)
- Exhibit "E"- Aerial of Site
- Exhibit "F"- Aerial - Traditional Historic Community of La Cienega
- Exhibit "G"- Vicinity Map
- Exhibit "H" – Letter from County Utilities
- Exhibit "I" – Plat of Survey
- Exhibit "J" – CDRC Minutes
- Exhibit "K" – Aerial illustrating adjoining lot sizes

09-12-11

To whom it may concern.

I Mauricio Solis hereby to inform you  
that I wish to divide my property  
on 22 Rancho Sin vaca in Santa Fe, NM  
~~87507~~ 87507, in the middle to my brother  
Mr. Jose Solis for the reason that we have  
been paying both the property and I would  
like to leave him protected in case of an  
emergency or accident.

Thanks.

Mauricio Solis



NBD-4



#### 4.3.2 Definitions

For purposes of this Section, the following definitions will apply:

- 4.3.2a Small Lot Inheritance Transfer - A lot created by an order of a court in probate, but not for the purpose of sale or lease, and which lot does not meet the density requirements of the Code.
- 4.3.2b Small Lot Family Transfer - A lot created as a gift from a grandparent, parent or legal guardian to his or her natural or adopted child or grandchild or legal ward, which lot does not meet the density requirements of the Code. (These relationships are further defined below in "Family Proper".) Any person may receive only one lot through Small Lot Family Transfer.
- 4.3.2c Family Proper - Lineal relations up to and including the third degree, i.e. grandparent, parent, child, Step relationships shall count as natural relationships so long as the step relationship is legally existent at the time of the transfer. Also including legal guardians who have performed the function of grandparent or parent to the person who is receiving the transferred lot.

#### 4.3.3 Requirements for Approval

##### 4.3.3a Small Lot Inheritance Transfers

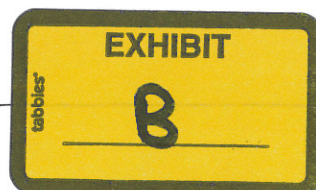
- i. Deed(s) transferring the parcel(s) to or among the heirs or beneficiaries shall be recorded at the time the plat is filed.

##### 4.3.3b Small Lot Family Transfers

- i. Deed(s) transferring the parcel(s) to family members shall be recorded at the time the plat is filed;
- ii. Proof that the land has been in the lawful possession of the family proper for no less than five years and that the recipient is an adult or emancipated minor is required;
- iii. Lots created by family transfer under this Section shall be so noted on the plat; and
- iv. An affidavit showing that notice of the application for approval of a family transfer plat has been mailed by certified mail to owners of property, as shown by the records of the County Assessor, adjacent to and within one hundred (100) feet, excluding public right-of-way, of the proposed family transfer parcel(s).
- v. The person transferring the lot shall file an affidavit with the County Clerk containing the following:
  - (i) A legal description of the property being transferred; and
  - (ii) A statement that he or she has not made a family transfer of any other lot(s) to the person receiving the current lot.

#### 4.3.4 Submittal and Review

The submittal and review requirements in Section 2.3 of this Article and Article III, Section 2.4.2 shall apply to the Small Lot Inheritance and Small Lot Family Transfers created under this Section. However, the Code Administrator retains the authority to refer these divisions directly to the County Development Review Committee or the Board when deemed in the public interest.



effect of the proposal in the operation of air navigation facilities and the safe efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship, and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, and will do substantial justice. Additionally, no application for variance may be considered by the County Development Review Committee unless a copy of the application has been furnished to the Airport Manager for advice as to the aeronautical effects of the variance. If the Airport Manager does not respond to the application within 15 days after receipt, the County Development Review Committee may act on its own to grant or deny said application. Any permit or variance granted may be so conditioned as to require the owner of the structure in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary.

History. 1980 Comp. 1980-6. Section 3.4 is new material by County Ordinance 1984-3, adding an administrative procedure to height variation requests in airport overlay zones.

#### SECTION 4 - SPECIAL PROCEDURE FOR APPROVAL OF DEVELOPMENT ON LOTS WHICH DO NOT MEET LOT SIZE REQUIREMENTS OF CODE

##### 4.1 Dwelling and Customary Accessory Structures

Dwelling and customary accessory structures may be erected on a lot which does not meet the lot size requirements of the Code, provided that:

- 4.1.1 The lot was in existence on the effective date of the Code (January 1, 1981) as demonstrated by the means listed in Section 4.4; or
- 4.1.2 The land is a lot which is part of a subdivision and the preliminary plat of the subdivision has been approved by the Board as of the effective date of the Code (January 1, 1981); or
- 4.1.3 The lot has been created by Small Lot Inheritance Transfer or Small Lot Family Transfer and the requirements of Section 4.3 of this Section are met.

##### 4.2 Requirements of Code Not Involving Size of Lot

All other requirements of the Code including, but not limited to, building height, setback, use, design standards, environmental provisions, water restrictions, development building and utility permits, and certificates of occupancy, as applicable, shall be met.

##### 4.3 Small Lot Inheritance and Small Lot Family Transfer

Dwellings and customary accessory structures may be erected on a lot which does not meet size requirements of the Code and is being created by inheritance or family transfer, provided the definitions, restrictions and standards of this Section are met.

###### 4.3.1 Purposes

4.3.1a To maintain local cultural values by perpetuating and protecting a traditional method of land transfer within families, especially within the traditional communities; and

→ 4.3.1b To permit transfers of lots which do not meet the lot size requirements of the Code from grandparents, parents or legal guardians as a one time gift to a child or grandchild in order to provide a more affordable home site for these adult children.





2.5 Zoning

In connection with the review of an application for a development permit with respect to matters described in the New Mexico Statutes concerning zoning, the procedures concerning zoning matters set forth in the New Mexico Statutes, as amended from time to time, shall apply in addition to the review procedures provided in the Code. The time limits established in this Article II may be extended if required, in order to comply with the procedures concerning zoning matters.

2.6 Subdivisions

In connection with review of an application for a development permit with respect to matters described in the New Mexico Subdivision Act, as it may be amended from time to time, the procedures for review provided for in Article V of the Code and the New Mexico Subdivision Act shall apply in addition to the review procedures provided in this Article II of the Code. The time limits established in this Article II shall be extended if required in order to comply with the procedures concerning subdivision matters.

2.7 Other Requirements

The time limits set forth in this Article II shall be extended in order to comply with other provisions of the Code providing for time limits in connection with reviews and requirements under the Code.

SECTION 3 - VARIANCES



3.1 Proposed Development

Where in the case of proposed development, it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A Development Review Committee may recommend to the Board and the Board may vary, modify or waive the requirements of the Code and upon adequate proof that compliance with Code provision at issue will result in an arbitrary and unreasonable taking or property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety. In arriving at its determination, the Development Review Committee and the Board shall carefully consider the opinions of any agency requested to review and comment on the variance request. In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified.

3.2 Variation or Modification

In no case shall any variation or modification be more than a minimum easing of the requirements.

3.3 Granting Variances and Modifications

In granting variances, and modifications, the Board may require such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified.

3.4 Height Variance in Airport Zones




All height variance requests for land located with approach, Transitional, Horizontal and Conical surfaces as described within Map #31 A, incorporated herein by reference, shall be reviewed for compliance with Federal Aviation Administration Regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the

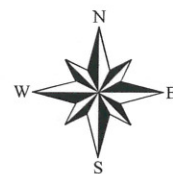
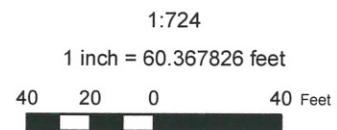






**Legend**

-  Major
-  Minor
-  Parcels



2008 Orthophotography

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errors associated with the use of these data.  
User are solely responsible for  
confirming data accuracy.






September 22, 2011

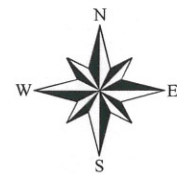
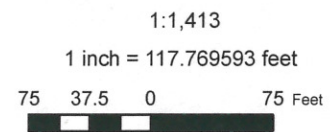
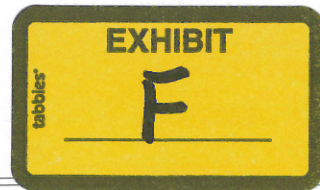
NBD-8





**Legend**

-  Major
-  Minor
-  Parcels



2008 Orthophotography

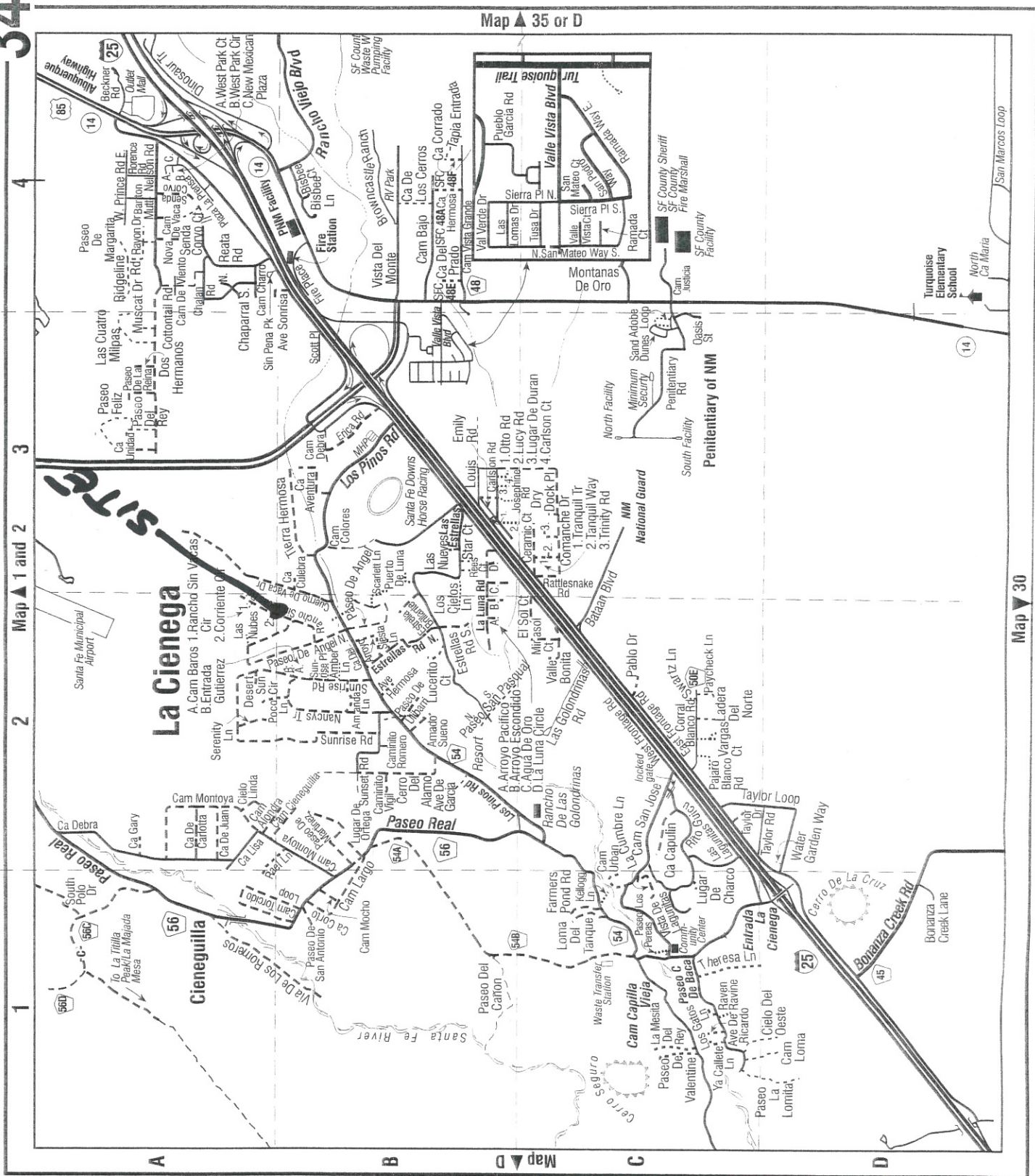
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September 22, 2011

NBD-9



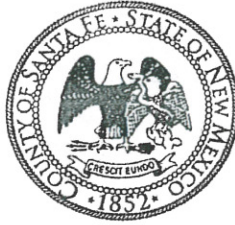


NBD-10

Daniel "Danny" Mayfield  
Commissioner, District 1

Virginia Vigil  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3



Kathy Holian  
Commissioner, District 4

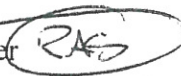
Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

Date: October 20<sup>th</sup>, 2011

To: Jose Larranaga, Commercial Development Case Manager

From: Karen Torres, Hydrogeologist

Thru: Rich Silva, Infrastructure Manager 

Re: CDRC CASE # V 11-5320 Muaricio Solis Variance

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Development Permit Application No V11-5320, requesting a density adjustment for the purpose of a family lot split, was reviewed for technical accuracy and compliance with the SFC Land Development Code and the La Cienega and La Cieneguilla Traditional Community Planning Area and Zoning District. (Ordinance No. 2002-9).

The subject parcel is not located within 200 feet of the Santa Fe County Water Utility and future plans for utility expansion do not make connection feasible at this time.

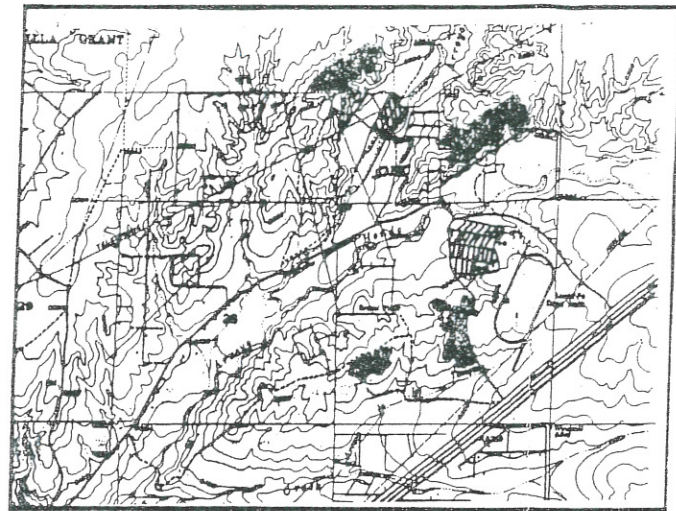
Upon review of the plat it was noted that La Cienega Watershed Condition No. 5, which requires dedication of a 15' wide utility easement, was not part of the "Land Division for Cheryl J. Anderson of Tract E Lot 4" recorded in Book 359 page 30-31. It should be noted the utilities department requires a 20 foot easement for access to water lines. If a new survey is required as part of this subdivision, including the required easement, it will be more cost effective now for the applicant than in the future.

It is recommended that any subsequent survey of the subject parcel be reviewed by the utilities department to ensure adequate easement has been dedicated.

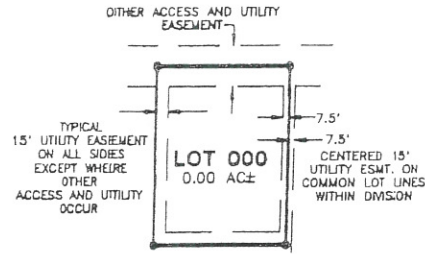
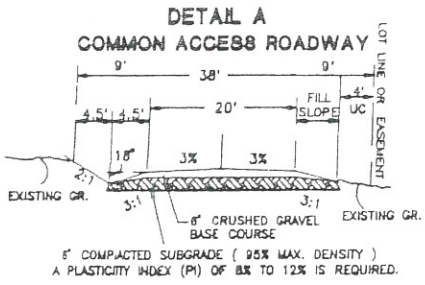
For inquiries or additional information please feel free to call me at (505) 992-9871 or e-mail at [ktorres@co.santa-fe.nm.us](mailto:ktorres@co.santa-fe.nm.us)







VICINITY MAP



DEDICATION AND AFFIDAVIT

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED OWNER(S), HAVE CAUSED TO BE DIVIDED THOSE LANDS SHOWN HEREON. THIS DIVISION IS MADE WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE WISHES AND DESIRES OF SAID OWNER(S). UTILITY COMPANIES ARE GRANTED EASEMENTS AS SHOWN AND FOR EXISTING UTILITIES. OTHER EASEMENTS ARE GRANTED AS SHOWN. ACCESS EASEMENTS GRANTED FOR PUBLIC USE. 15' UTILITY EASEMENT GRANTED TO S.F.CO. WATER SYS.

THIS DIVISION CONTAINS 10.00 AC.±, AND LIES WITHIN THE PLANNING AND PLATTING JURISDICTION OF THE CITY AND COUNTY OF SANTA FE, NEW MEXICO.

*Cheryl J. Anderson*  
CHERYL J. ANDERSON

STATE OF NEW MEXICO 55  
COUNTY OF SANTA FE

THE FOREGOING INSTRUMENT WAS SWORN, ACKNOWLEDGED AND SUBSCRIBED BEFORE ME BY CHERYL J. ANDERSON  
THIS 16<sup>th</sup> DAY OF December, 1998.

MY COMMISSION EXPIRES 4/27/98 NOTARY PUBLIC



LEGEND AND NOTES

- DENOTES POINT FOUND (11011 CAPP UNLESS OTHERWISE NOTED)
- DENOTES 11011 CAPPED REBAR SET THIS SURVEY
- DENOTES POINT CALCULATED
- DENOTES BRASS MONUMENT
- ⊕ DENOTES UTILITY POLE
- DENOTES EDGE OF EASEMENT
- - - DENOTES OVERHEAD LINES
- X - X - DENOTES FENCE LINE
- - - - - DENOTES EDGE OF DRAINAGE EASEMENT

SANTA FE COUNTY APPROVAL, NOTES AND CONDITIONS:

*Calvin K. Jager* 11/14/98  
E.Z.G. CHAIRMAN MEETING DATE

*Richard A. Chatroop* 4/4/99  
COUNTY LAND USE ADMINISTRATOR DATE

96-4908  
DEVELOPMENT PERMIT NO.

1362 PAGE 112-114  
DOCUMENT NO. 979.739

1. MAINTENANCE OF PRIVATE ACCESS EASEMENTS TO BE RESPONSIBILITY OF TRACT OWNERS.
2. THIS PARCEL LIES WITHIN ZONE X AREAS OUTSIDE 500 YR. FLOOD PLAIN AS SHOWN ON F.I.R.M. PANEL #350089 228B DATED 11/04/88 EXCEPT 100YR. FLOOD ZONE WHERE SHOWN.
3. WATER WELL WITHDRAWAL ON THESE LOTS RESTRICTED BY COVENANTS FILED IN THE OFFICE OF THE COUNTY CLERK RECORDED IN BOOK 1362 PAGE 112-114
4. PURSUANT TO THE SANTA FE COUNTY LAND DEVELOPMENT CODE, THE SOIL RATING ON THIS PROPERTY IS DESIGNATED AS BEING MODERATE TO SEVERE REGARDING LIMITATIONS TO SEPTIC TANKS. POTENTIAL BUYERS/SELLERS OF THIS PROPERTY SHOULD INQUIRE WITH THE NEW MEXICO ENVIRONMENT DEPARTMENT WHETHER THESE SOILS ARE SUITABLE FOR CONVENTIONAL SEPTIC SYSTEM OR IF AN ALTERNATIVE SYSTEM IS REQUIRED.
5. SANTA FE COUNTY'S APPROVAL OF THIS SURVEY PLAT DOES NOT INCLUDE THE CONSTRUCTION OF THE PRIVATE EASEMENTS OR ROADS AS SHOWN. PRIOR TO THE CONSTRUCTION OF SAID PRIVATE EASEMENTS OR ROADS, IT IS REQUIRED THAT AN ADDITIONAL DEVELOPMENT PERMIT BE APPLIED FOR AND THEN APPROVED BY THE SANTA FE COUNTY LAND USE ADMINISTRATOR.
6. NEW DRIVEWAY/ROAD ACCESS FROM CO. RD. 54 IS SUBJECT TO APPROVAL FOR LOCATION AND INSTALLATION OF A CULVERT AS PERMITTED BY SANTA FE COUNTY PRIOR TO ISSUANCE OF A PERMIT FOR CONSTRUCTION.
7. THE APPROVAL OF THIS PLAT DOES NOT CONSTITUTE THE APPROVAL OF ANY FURTHER DEVELOPMENT INCLUDING BUILDING PERMITS.
8. THE PARCELS AS PLATTED HEREON MAY BE SUBJECT TO FUTURE TERRAIN MANAGEMENT REGULATIONS AS ADOPTED BY SANTA FE COUNTY.
9. ON SITE SANITARY SEWER SERVICE SHALL BE THE RESPONSIBILITY OF THE LOT OWNERS, AND MUST BE PERMITTED AND APPROVED BY NEW MEXICO ENVIRONMENTAL DEPARTMENT.
10. TERRAIN MANAGEMENT REGULATIONS (ARTICLE VII, SECTION 3.2, OF THE COUNTY LAND DEVELOPMENT CODE) SHALL BE COMPLIED WITH AT THE TIME OF BUILDING PERMIT APPLICATION FOR EACH LOT.
11. THESE LOTS ARE SUBJECT TO SANTA FE COUNTY FIRE AND RESCUE IMPACT FEES AT THE TIME OF APPLICATION FOR BUILDING PERMITS.
12. IF ANY PART OF THIS PROPERTY DIVISION REVERTS BACK BY CONVEYANCE, DEFAULT, ASSIGNMENT OF REAL ESTATE CONTRACT OR ANY OTHER METHOD TO ANY PERSON IN THE PREVIOUS CHAIN OF TITLE EXCEPT THE IMMEDIATE OWNER/SELLER, OR TO ANY RELATIVE OR EMPLOYEE OF THAT PERSON OR ANY ENTITY INVOLVING SUCH ENTITY OR PERSON THEN THIS PROPERTY DIVISION IS VOID AND SHALL BE CONSIDERED RECONSOLIDATED.

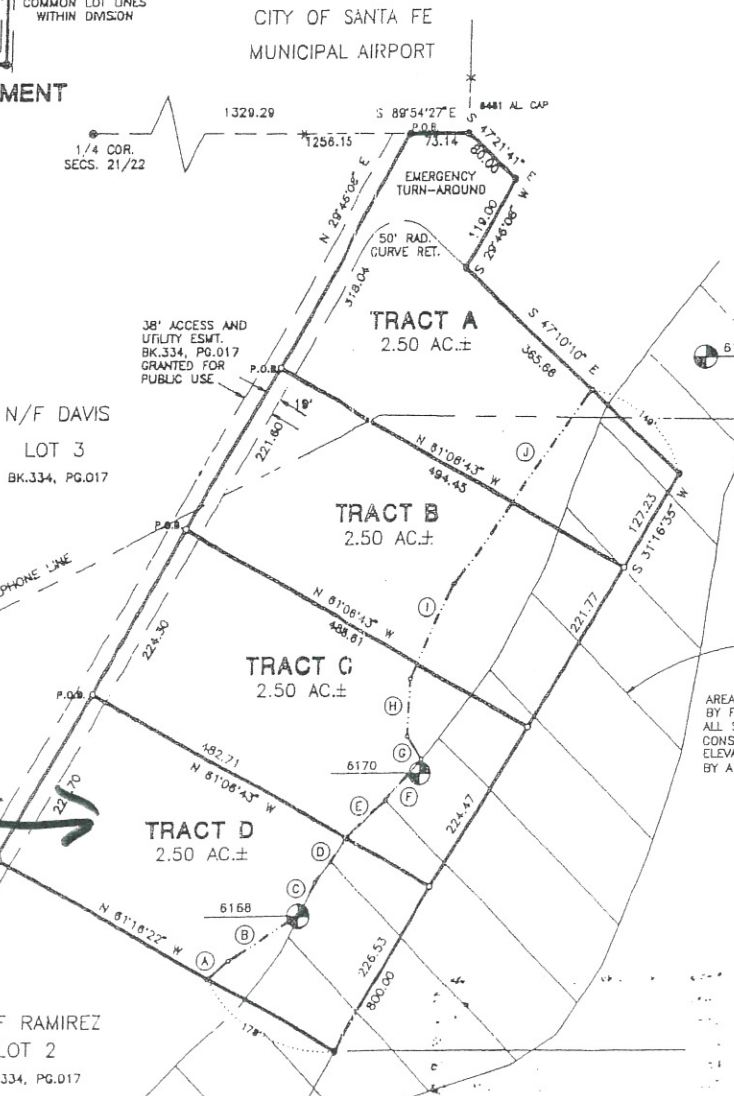
DESCRIPTIONS

TRACT A  
A PARCEL OF LAND LYING WITHIN SECTION 22, T16N, R8E, N.M.P.M., SANTA FE COUNTY, NEW MEXICO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
COMMENCING AT THE NORTHWEST CORNER OF THE PARCEL HEREON DESCRIBED FROM WHENCE THE 1/4 CORNER OF SECTIONS 21 AND 22 AS REFERENCED ABOVE BEARS N 89°54'27" E 1258.15;  
THENCE FROM SAID POINT AND PLACE OF BEGINNING:  
THENCE S 89°54'27" E 73.14;  
THENCE S 47°21'41" E 80.00;  
THENCE S 29°48'08" W 119.00;  
THENCE S 47°10'10" E 385.88;  
THENCE S 31°18'35" W 127.23;  
THENCE N 81°08'43" W 494.43;  
THENCE N 29°48'08" E 318.04;  
TO THE POINT AND PLACE OF BEGINNING.  
CONTAINING 2.50 ACRES MORE OR LESS AND AS MORE FULLY SHOWN AS TRACT A HEREON.

TRACT C  
A PARCEL OF LAND LYING WITHIN SECTION 22, T16N, R8E, N.M.P.M., SANTA FE COUNTY, NEW MEXICO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
COMMENCING AT THE NORTHWEST CORNER OF THE PARCEL HEREON DESCRIBED FROM WHENCE THE 1/4 CORNER OF SECTIONS 21 AND 22 AS REFERENCED ABOVE BEARS N 29°48'08" E 783.84;  
THENCE N 89°54'27" W 1258.15;  
THENCE FROM SAID POINT AND PLACE OF BEGINNING:  
THENCE S 81°08'43" E 488.81;  
THENCE S 31°18'35" W 224.47;  
THENCE N 81°08'43" W 482.71;  
THENCE N 29°48'08" E 224.30;  
TO THE POINT AND PLACE OF BEGINNING.  
CONTAINING 2.50 ACRES MORE OR LESS AND AS MORE FULLY SHOWN AS TRACT C HEREON.

TRACT B  
A PARCEL OF LAND LYING WITHIN SECTION 22, T16N, R8E, N.M.P.M., SANTA FE COUNTY, NEW MEXICO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
COMMENCING AT THE NORTHWEST CORNER OF THE PARCEL HEREON DESCRIBED FROM WHENCE THE 1/4 CORNER OF SECTIONS 21 AND 22 AS REFERENCED ABOVE BEARS N 29°48'08" E 318.04;  
THENCE N 89°54'27" W 1258.15;  
THENCE FROM SAID POINT AND PLACE OF BEGINNING:  
THENCE S 81°08'43" E 484.45;  
THENCE S 31°18'35" W 221.77;  
THENCE N 81°08'43" W 488.81;  
THENCE N 29°48'08" E 221.80;  
TO THE POINT AND PLACE OF BEGINNING.  
CONTAINING 2.50 ACRES MORE OR LESS AND AS MORE FULLY SHOWN AS TRACT B HEREON.

TRACT D  
A PARCEL OF LAND LYING WITHIN SECTION 22, T16N, R8E, N.M.P.M., SANTA FE COUNTY, NEW MEXICO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
COMMENCING AT THE NORTHWEST CORNER OF THE PARCEL HEREON DESCRIBED FROM WHENCE THE 1/4 CORNER OF SECTIONS 21 AND 22 AS REFERENCED ABOVE BEARS N 29°48'08" E 783.84;  
THENCE N 89°54'27" W 1258.15;  
THENCE FROM SAID POINT AND PLACE OF BEGINNING:  
THENCE S 81°08'43" E 482.71;  
THENCE S 31°18'35" W 228.53;  
THENCE N 81°18'22" W 478.77;  
THENCE N 29°48'08" E 227.70;  
TO THE POINT AND PLACE OF BEGINNING.  
CONTAINING 2.50 ACRES MORE OR LESS AND AS MORE FULLY SHOWN AS TRACT D HEREON.



KEY TO DRAINAGE AND FLOOD PLAIN LIMITS

- (A) N 49°00'33" E 32.97
- (B) N 57°32'19" E 98.32
- (C) N 28°01'05" E 44.60
- (D) N 38°27'17" E 67.69
- (E) N 46°32'33" E 63.21
- (F) N 42°35'46" E 67.86
- (G) N 34°43'05" W 33.80
- (H) N 02°20'52" E 68.74
- (I) N 24°57'13" E 124.31
- (J) N 35°49'30" E 282.33



SCALE: 1=100

NOTE:  
THE OWNER HAS BEEN ADVISED THAT THE SUBJECT PROPERTY IS LOCATED ADJACENT TO A NOISE-IMPACTED AREA. THESE PRESENT AND FUTURE NOISE IMPACTS MIGHT BE ANNOYING TO USERS OF THE LAND FOR ITS STATED PURPOSE AND MIGHT INTERFERE WITH THE UNRESTRICTED USE AND ENJOYMENT OF THE PROPERTY IN ITS INTENDED USE. THAT THESE NOISE IMPACTS MIGHT CHANGE OVER TIME BY VIRTUE OF GREATER NUMBERS OF AIRCRAFT, LOUDER AIRCRAFT, SEASONAL VARIATIONS, AND TIME-OF-DAY VARIATIONS; THAT CHANGES IN AIRPORT, AIRCRAFT AND AIR TRAFFIC CONTROL OPERATING PROCEDURES OR IN AN AIRPORT LAYOUT COULD RESULT IN INCREASED NOISE IMPACTS; AND THAT THE GRANTORS OR OWNERS OWN PERSONAL PERCEPTIONS OF THE NOISE EXPOSURE COULD CHANGE AND THAT HIS OR HER SENSITIVITY TO AIRCRAFT NOISE COULD INCREASE.

SURVEYORS CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAT AND THE NOTES HEREON ARE AN ACCURATE DELINEATION OF A FIELD SURVEY COMPLETED BY ME OR UNDER MY DIRECTION ON AUG. 1ST, 1998, AND ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND MEET THE MINIMUM STANDARDS FOR PROFESSIONAL LAND SURVEYORS PRACTICING IN NEW MEXICO.

*Richard A. Chatroop*  
RICHARD A. CHATROOP N.M.P.L.S. #11011

SANTA FE COUNTY  
SABRE-DE CRISTO WATER CO. *James E. Rubin* DATE 12-17-96  
U.S. WEST COMMUNICATIONS *Tom Sherry* DATE 12-16-96  
PUBLIC SERVICE CO. OF N.M. *David J. Davis* DATE 12-18-96  
GAS CO. OF N.M. *Jonathan Gardner* DATE 12/14/96

REVIEWED BY *Robert C. Schae* DATE 12-3-97  
CITY SUBDIVISION ENG.  
REVIEWED BY *N/A* DATE  
CITY PUBLIC WORKS DIRECTOR  
REVIEWED BY *Greg Smith* DATE 12/14/97  
CITY PLANNER

COUNTY OF SANTA FE 55 979.738  
STATE OF NEW MEXICO  
I hereby certify that this instrument was filed for record on the 16<sup>th</sup> day of December, 1998, A.D. at 2:38 o'clock P.M. and was duly recorded in book 359 of the records of Santa Fe County.

Witness my Hand and Seal of Office  
*Jana G. Armijo*  
County Clerk, Santa Fe County, N.M.

*Melissa Salazar*  
Deputy

LA CIENEGA WATERSHED CONDITIONS

1. CONNECTION TO COUNTY WATER UTILITY. THE LOT OWNERS, THEIR SUCCESSORS AND ASSIGNS SHALL AGREE TO CONNECT TO THE COUNTY WATER UTILITY WHEN SERVICE IS AVAILABLE WITHIN TWO HUNDRED FEET (200') OF THE PROPERTY LINE OF THE LAND BEING DIVIDED. WHICH TWO HUNDRED FEET (200') SHALL BE MEASURED ALONG PLATTED EASEMENTS TO THE NEAREST PROPERTY LINE. THE LANDOWNERS, THEIR SUCCESSORS AND ASSIGNS AGREE NOT TO OPPOSE THE CREATION OF AN IMPROVEMENT DISTRICT PURSUANT TO ARTICLES 4-55A-1, ET SEQ. NMSA 1978, AS THOSE SECTIONS MAY BE APPROPRIATE. ALTERNATIVELY, THIS CONDITION DOES NOT PRECLUDE ANY LOT OWNER FROM CONNECTING TO THE COUNTY WATER UTILITY UTILIZING OTHER MEANS OF FINANCING THAN THE IMPROVEMENT DISTRICT METHOD. THE LINE EXTENSION WITHIN SAID TWO HUNDRED FEET (200') SHALL BE DONE IN ACCORDANCE WITH THE APPLICABLE RULES AND REGULATIONS AND TARIFFS OF THE SANTA FE COUNTY WATER UTILITY.
2. ENCOURAGEMENT FOR SHARED WELLS. TO THE GREATEST EXTENT FEASIBLE, LOT OWNERS SHOULD USE SHARED WELLS TO MINIMIZE EXPENSES RELATED TO INTERIM WATER SUPPLIES.
3. DESIGN AND CONSTRUCTION. AT THE TIME A LINE EXTENSION IS MADE OR SHARED WELL SYSTEM SHALL BE DESIGNED TO MEET THE MINIMUM FLOW REQUIREMENTS OF THE LAND DIVIDED, EXCLUSIVE OF ANY RESERVOIR CAPACITY.
4. DISCONNECTION FROM DOMESTIC WELLS. AT THE TIME THE CONNECTION IS MADE TO THE SANTA FE WATER UTILITY, LOT OWNERS, THEIR HEIRS, SUCCESSORS AND ASSIGNS, AGREE TO DISCONNECT FROM ANY DOMESTIC WELLS CREATED UNDER NMSA 72-12-1(1978) AND TO DISCONTINUE USE OF SAID WELLS EXCEPT IN EMERGENCY CIRCUMSTANCES.
5. EASEMENTS. LOT OWNERS SHALL DEDICATE A FIFTEEN FOOT (15') WIDE UTILITY EASEMENT ALONG ALL PROPERTY LINES FOR THE INFRASTRUCTURE WATER DISTRIBUTION LINES FOR THE COUNTY WATER UTILITY SYSTEM.

LAND DIVISION FOR  
CHERYL J. ANDERSON  
OF  
TRACT E LOT 4

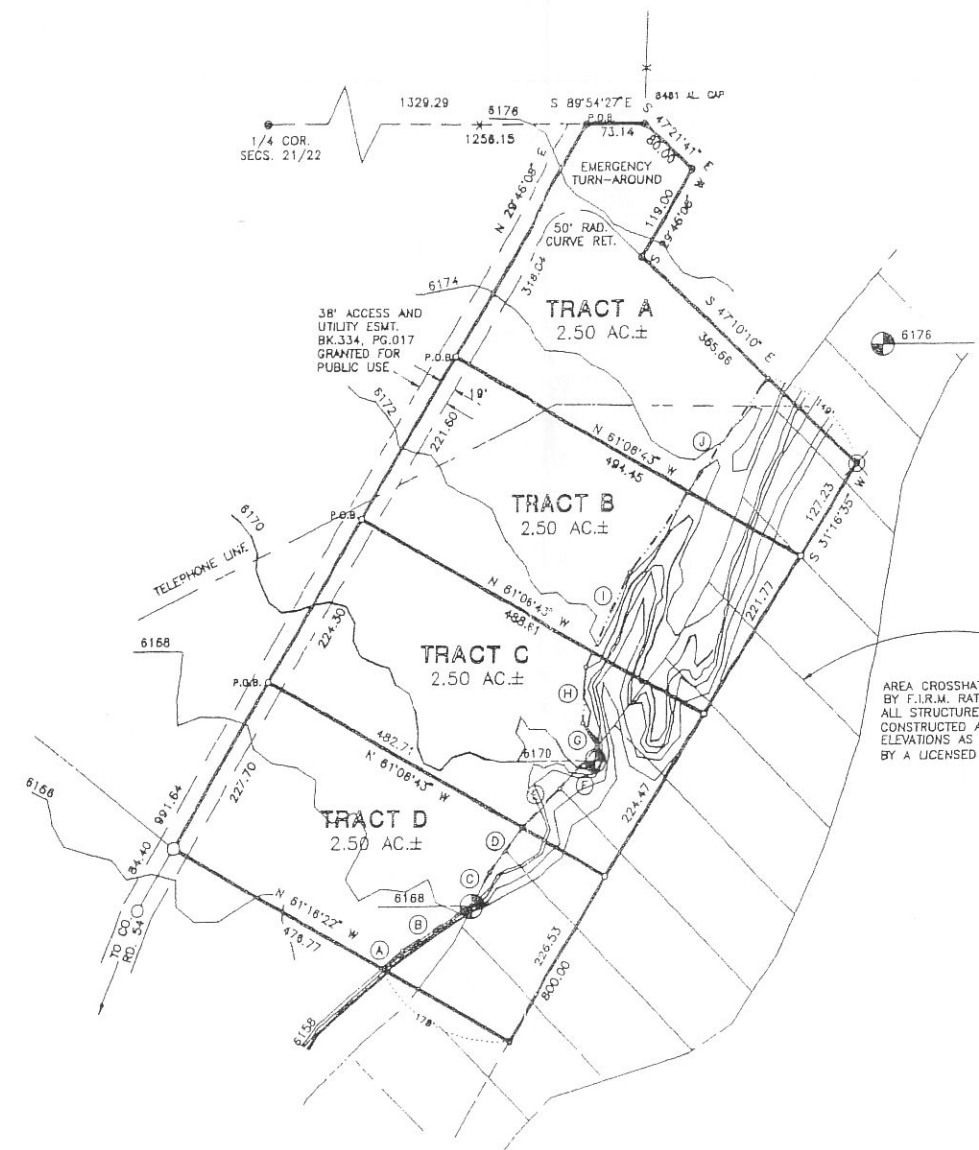
AS LAST FILED IN BK.334, PG.017, SANTA FE CO. CLERK LYING WITHIN SECTION 22, T16N, R8E, N.M.P.M., SANTA FE COUNTY.

EXHIBIT I

OWNER: CHERYL J. ANDERSON  
LOCATION: LYING WITHIN SECTION 22, T16N, R8E, N.M.P.M., SANTA FE CO., N.M.

NBD-12





**KEY TO DRAINAGE AND FLOOD PLAN LIMITS**

(A)	N 49°00'33" E	32.97
(B)	N 57°32'19" E	98.32
(C)	N 28°01'05" E	44.60
(D)	N 36°27'17" E	67.69
(E)	N 46°32'33" E	63.21
(F)	N 42°35'46" E	67.86
(G)	N 34°43'05" W	33.80
(H)	N 02°20'52" E	68.74
(I)	N 2°45'13" E	124.31
(J)	N 31°49'30" E	282.33

**LEGEND AND NOTES**

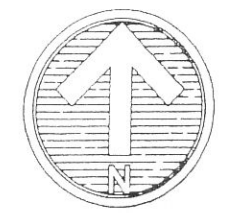
- DENOTES POINT FOUND (11011 CAP UNLESS OTHERWISE NOTED)
  - DENOTES POINT SET THIS SURVEY
  - DENOTES POINT CALCULATED
  - ⊙ DENOTES BRASS MONUMENT
  - DENOTES EDGE OF EASEMENT
  - - - DENOTES OVERHEAD LINES
  - x - x - DENOTES FENCE LINE
  - · - · - · DENOTES EDGE OF DRAINAGE EASEMENT
1. CONTOUR INTERVALS EQUAL 2FT.
  2. ELEVATION DATUM IS ASSUMED

**KEY TO SLOPE ANALYSIS**

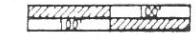
RANGE

0 - 10%
---------

NOTE: ALL BUILDABLE PORTIONS OF TRACTS A THRU D HAVE A SLOPE OF LESS THAN 10% (DRAINAGE AREA AND FLOOD PLAN ARE NOT IN THE BUILDABLE AREA).



SCALE: 1-100



**SURVEYORS CERTIFICATE**

I HEREBY CERTIFY THAT THIS PLAT AND THE NOTES HEREON ARE AN ACCURATE DELINEATION OF A FIELD SURVEY COMPLETED BY ME OR UNDER MY DIRECTION ON AUG. 1ST, 1996, AND ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND MEET THE MINIMUM STANDARDS FOR PROFESSIONAL LAND SURVEYORS PRACTICING IN NEW MEXICO.

*Rick Chatroop*  
 RICK CHATROOP N.M.L.S.#11011

**TOPOGRAPHIC PLAN FOR  
 CHERYL J. ANDERSON  
 OF  
 TRACT E LOT 4**

LYING WITHIN SECTION 22, T16N, R8E, NMPM, SANTA FE COUNTY,  
 NEW MEXICO.

COUNTY OF SANTA FE )  
 STATE OF NEW MEXICO )  
 I hereby certify that this instrument was filed  
 for record on the \_\_\_\_\_ day of \_\_\_\_\_ A.D.  
 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ m.  
 and was duly recorded in book \_\_\_\_\_ of the records of  
 page \_\_\_\_\_ of Santa Fe County.

Witness my Hand and Seal of Office  
 Juna G. Armijo  
 County Clerk, Santa Fe County, N.M.

**RICK CHATROOP**  
**PROFESSIONAL LAND SURVEYOR**  
 NEW MEXICO REGISTRATION NO. 11011  
 (505) 470-0037 RT. 1 BOX 504 PECOS, NM 87652

**INDEXING INFORMATION FOR THE COUNTY CLERK**  
 OWNER: CHERYL J. ANDERSON  
 LOCATION: LYING WITHIN SECTION 22, T16N, R8E, NMPM, SANTA FE CO., N.M.

NBD-13

**D. CDRC CASE # V 11-5320 Mauricio Solis Variance of Family Proper. Mauricio Solis, Applicant, requests a variance of Article II, Section 4.3.2c (Family Proper) of the Land Development Code to allow the transfer of land as a family transfer from sibling to sibling. The property is located within the Traditional Historic Community of La Cienega, at 22 Rancho Sin Vaca Road, within Section 22, Township 16 North, Range 8 East, (Commission District 3)**

Jose Larrañaga gave the staff report as follows:

“The Applicant requests a variance of Article II, Section 4.3.2c, Family Proper, of the Land Development Code. Family Proper is described in Article II, Section 4.3.2c, as ‘lineal relations up to and including the third degree, i.e. grandparent, parent, child. Step relations shall count as natural relationships so long as the step relationship is legally existent at the time of the transfer, including legal guardians who have performed the function of grandparent or parent to the person who is receiving the transferred lot.’

“The Applicant states both he and his brother make payment on the property. The property is under the Applicant’s name and he would like to transfer one half of the property to his brother to protect his brother’s interest in the property.

“Article II, Section 4.3.2b, Definition of a Small Lot Family Transfer states; ‘A lot created as a gift from a grandparent, parent or legal guardian to his or her natural or adopted child or grandchild or legal ward, which lot does not meet the density requirements of the Code Any person may receive only one lot through Small Lot Family Transfer.’

“Article II, Section 4.3.1b, states that the Purpose of a Small Lot Family Transfer is to permit transfers of lots which do not meet the lot size requirements of the Code from grandparents, parents or legal guardians as a onetime gift to a child or grandchild in order to provide a more affordable home site for these adult children.

“The property has been in lawful possession of the Applicant for over five years. There are currently two residences and two conventional septic systems on site. The property is served by an on-site well. The 2.5-acre parcel is located within the Basin Hydrologic Zone and is in compliance with Article III, Section 10, Lot Size Requirements, of the Land Development Code.

“Staff has analyzed the feasibility of this parcel of land to be subdivided as a Family Transfer per Code requirements. Staff has determined that if the Applicant met the Family Proper requirements, a Family Transfer land division could be processed administratively.





“Article II Section 3 of the County Code states: ‘Where in the case of proposed development, it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted condition or that these conditions would result in inhibiting the achievement of the purposes of the Code, the applicant may submit a written request for a variance.’ This Section goes on to state ‘In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified.’”

Mr. Larrañaga stated staff has reviewed this Application and has found the following facts presented not to support this Application: a Family Transfer from sibling to sibling does not comply with the definition of lineal relations as defined in Article II, Section 4.3.2c of the Land Development Code; the purpose of the Code may be nullified by allowing the creation of lots, which do not meet the minimum lot size requirements, by means of a variance of the Family Proper criteria; the Applicant has not justified a hardship as defined in Article II, Section 3 of the Land Development Code, therefore staff recommends denial of the Applicant’s request.

If the decision of the CDRC is to recommend approval, staff recommends the following conditions be imposed;

1. Water use shall be restricted to 0.25 acre feet per year per lot. A water meter shall be installed for both lots this shall be noted on the Plat. Annual water meter readings shall be submitted to the Land Use Administrator by January 1<sup>st</sup> of each year. Water restrictions shall be recorded in the County Clerk’s Office.
2. A shared well agreement shall be recorded with the Plat.
3. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval.
4. No further division of either tract shall be permitted. This shall be noted on the plat.
5. The Applicant shall connect to the County Water System when it becomes available within 200 feet of the property line.

Member Katz received confirmation that there are two permitted houses on the property, one permitted 11 years ago and one permitted 8 years ago and no further division, residences or family transfers would be permitted. It is not in the traditional historic community of La Cienega.

Member Gonzales asked if both brothers were currently living on the property and Mr. Larrañaga said they were. Minimum lot size is five acres, or 2.5 acres with water restrictions. Smaller lots are permitted if community water and/or sewer are present. According to the County Hydrologist this is not within the service area. With a family transfer a lot can be split into two 1.25-acre lots. The only other option would be a geohydro report.

Chair DeAnda asked about the impact to neighboring properties, and Mr. Larrañaga they would have the ability to administratively divide their properties by family transfer. Chair DeAnda pointed out that the problem is the code does not include brothers as a permitted relationship for family transfers and that this is not a gift.

Member Katz asked if Mr. Solis' could transfer an undivided half interest in the property so that it could be owned jointly. Mr. Larrañaga said he did not believe so. As he understood it, Mr. Solis wants his brother to own his lot free and clear should something happen to one or the other.

Mauricio Solis, under oath, said both he and his brother have been paying for the property. He related that someone he knew visited Mexico and died there; he doesn't want to have any problems for the families should something happen to one of the brothers.

Chair DeAnda asked if he was aware the property could be held in common legally. Mr. Solis said he didn't want any problems between the two families.

There was no one from the public wishing to provide testimony.

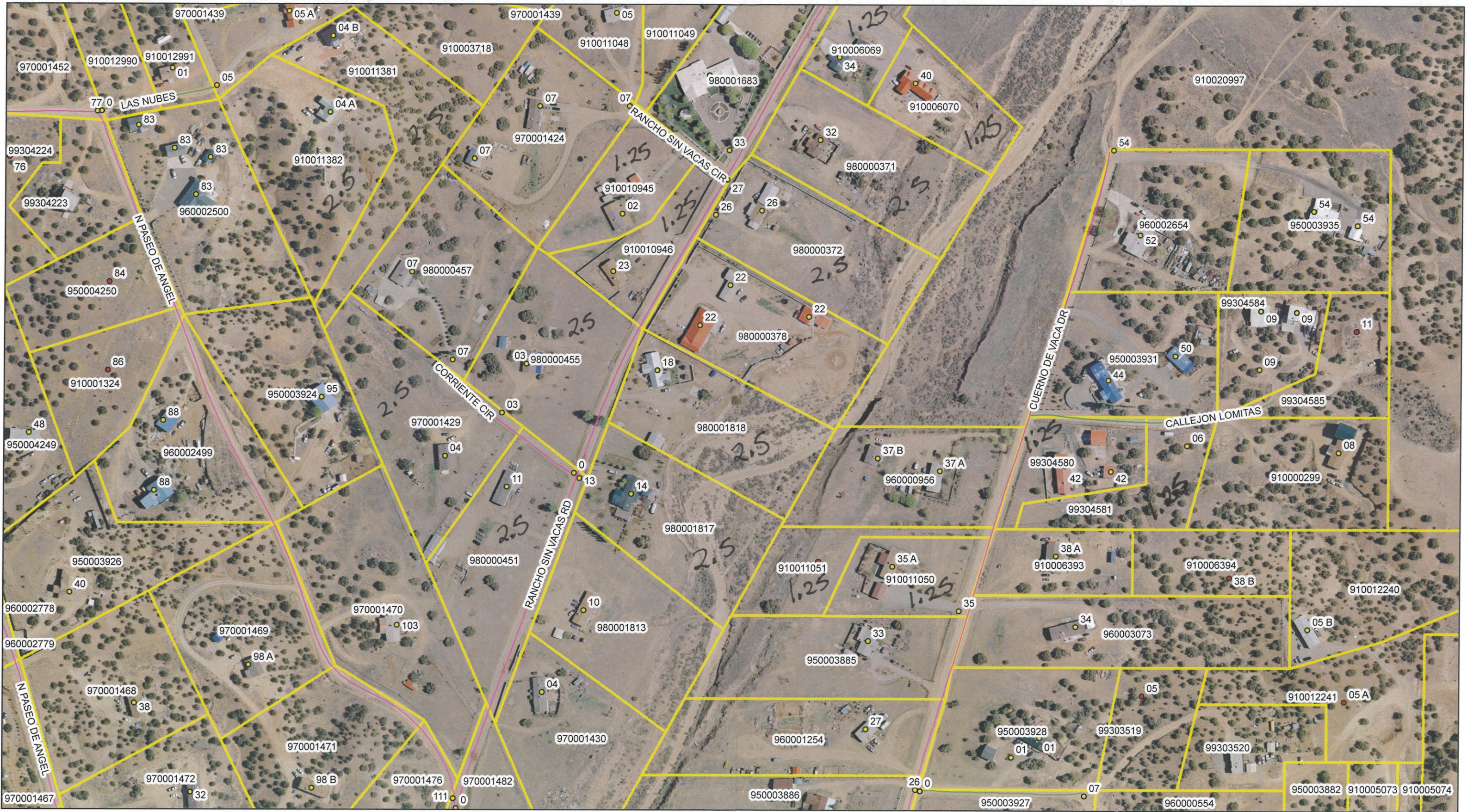
Member Katz moved to deny the variance request in CDRC Case #V 11-5320, adding the law is clear on what is allowed regarding family transfers. Member Drobnis seconded and the motion passed by 4-1 voice vote with Member Valdez casting the dissenting vote.

**E. CDRC CASE # PDP/DP 11-5310 Santa Fe Animal Shelter & Humane Society. Santa Fe Animal Shelter & Humane Society, Applicant, requests Preliminary Development Plan approval for Phase II and Phase III as allowed by the approved Master Plan. The Applicant also requests Final Development Plan approval for Phase II which consists of an 11,400 square foot two story structure to be utilized as a veterinary hospital. The request also includes Phase III Final Development Plan to be approved administratively. Phase III consists of a 7,300 square foot structure to be utilized as a dog training pavilion and community humane education center. The property is located at 100 Caja del Rio Road, within Section 35, Township 17 North, Range 8 East (Commission District 2)**

Mr. Larrañaga gave the following staff report:

“On November 13, 2001, the Board of County Commissioners approved Master Plan Zoning for the Santa Fe Animal Shelter & Humane Society. The approval consisted of Phase I animal care and adoption center, Phase II veterinary hospital and Phase III dog training, humane education and administrative offices. The approval also included Preliminary and Final Development Plan for Phase I.





# Map of Property in Santa Fe County

**WARNING:**  
Two (2) foot contour data sets are  
**NOT SUITABLE FOR ENGINEERING WORK.**  
These data are appropriate for  
**PLANNING PURPOSES ONLY.**

Orthophoto from 2008      Contour Interval 2 Feet  
This information is for reference only. Santa Fe County assumes  
no liability for errors associated with the use of these data.  
Users are solely responsible for confirming data accuracy.



December 13, 2011  
1 inch represents 200 feet

