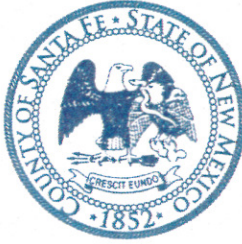


Daniel "Danny" Mayfield
Commissioner, District 1

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: May 8, 2012

TO: Board of County Commissioners

FROM: Wayne Dalton, Building and Development Services Supervisor 

VIA: Penny Ellis-Green, Interim Land Use Administrator 

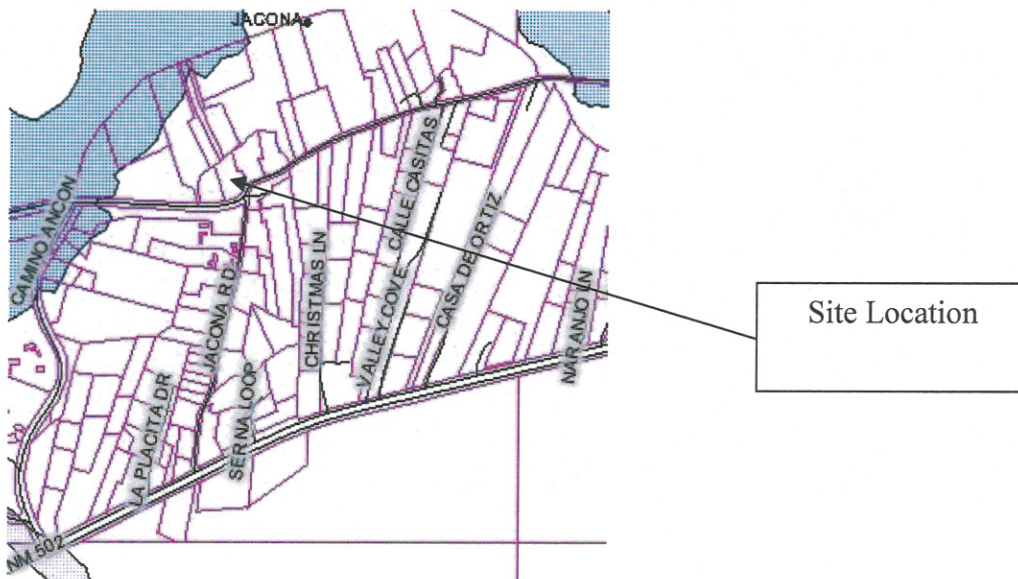
FILE REF.: CDRC CASE # V 11-5400 Jenny Cocq Variance

ISSUE:

Jenny Cocq, Applicant, Matthew McQueen, (Attorney At Law), Agent, request a variance of Article III, §10 (Lot Size Requirements) of the Land Development Code to allow two dwelling units on 0.79 acres.

The property is located at 131 County Road 84, in the vicinity of Jacona, within Section 12, Township 19 North, Range 8 East, (Commission District 1).

Vicinity Map:



SUMMARY:

The Applicant requests a variance of Article III, § 10 (Lot Size Requirements) of the Land Development Code to allow two dwelling units on 0.79 acres. There are currently four dwelling units on the property. The structures consist of a main residence, a studio and a garage. The studio has been converted into a dwelling with a kitchen and bathroom facilities. The garage which was permitted on May 2, 1994, (Permit # 94-996) has been converted into a dwelling unit with the potential of having a second unit with kitchen and bath facilities.

On October 10, 2011, Code Enforcement received a complaint on the subject property stating the property owner was exceeding density on the property. On October 18, 2011, Code Enforcement conducted an inspection and observed multiple dwelling units on the property. Code Enforcement then issued a Notice of Violation to the property owner for exceeding density.

The Applicant states as a result of the lack of experience and some bad advice, the Applicant was encouraged to convert the two accessory structures into dwelling units. The Applicant now understands and acknowledges that this was in error. The Applicant proposes to remove the kitchen facilities from the studio and bring it into compliance for its original purpose as a working artist studio/office. The Applicant also proposes to convert the two dwelling units within the garage into a single dwelling unit for a total of two dwelling units on the property.

Article II, § 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."

This Application was submitted on December 9, 2011. The Applicant was out of the Country on a family emergency and had to postpone the public hearing process until the CDRC meeting of March 15, 2012.

On March 15, 2012, the County Development Review Committee met and acted on this case, the decision of the CDRC was to recommend approval by a 4-2 vote (Minutes Attached as Exhibit 1).

Growth Management staff have reviewed this Application for compliance with pertinent Code requirements and finds the project is not in compliance with County criteria for this type of request.

APPROVAL SOUGHT: Approval of a variance from Article III, §10 (Lot Size Requirements) of the Land Development Code.

GROWTH MANAGEMENT AREA: El Norte, SDA-2

HYDROLOGIC ZONE: Traditional Community of Jacona, minimum lot size per Code is 0.75 acres per dwelling unit. The two proposed dwelling units exceed the number of units allowed on the subject property.

FIRE PROTECTION: Pojoaque Fire District.

WATER SUPPLY: Domestic Well

LIQUID WASTE: Conventional Septic System

VARIANCES: Article III, §10 (Lot Size Requirements) of the Land Development Code.

AGENCY REVIEW: None

STAFF RECOMMENDATION: **Denial of a variance from Article III, §10 (Lot Size Requirements) of the Land Development Code.**

If the decision of the BCC is to approve the Applicant's request, staff recommends imposition of the following conditions:

1. Water use shall be restricted to 0.25 acre feet per year per home. A water meter shall be installed for each residence. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office (**As per Article III, § 10 and Ordinance No. 2002-13**).
2. The Applicant must obtain a development permit from the Building and Development Services Department for the second dwelling unit and the studio (**As per Article II, § 2**).
3. Prior to submitting for a Development Permit, an inspection must be conducted to ensure the additional kitchen facilities have been removed. This will consist of core filling drain pipes and capping all gas lines. Code Enforcement must be present at that time (**As per Article III, § 10**).
4. The Applicant shall provide an updated liquid waste permit from the New Mexico Environment Department with Development Permit Application (**As per Article III, § 2.4.1a.1(a) (iv)**).
5. The placement of additional dwelling units on the property is prohibited (**As per Article III, § 10**).

6. The Applicant shall comply with all Fire Prevention Division requirements (**As per 1997 Fire Code and 1997 NFPA Life Safety Code**).
7. No more than two electric meters shall be allowed on the property. Additional electric meters must be removed from property (**As per Article III, § 10**).

EXHIBITS:

1. CDRC Minutes
2. Letter of request
3. Article III, §10 (Lot Size Requirements)
4. Article II, § 3 (Variances)
5. Site Photographs
6. Site Plan
7. Aerial of Site and Surrounding Area
8. Letters of Support

V. APPROVAL OF MINUTES: February 16, 2012

Chair DeAnda moved to approve the February minutes as submitted. Member Gonzales seconded and the motion passed by unanimous voice vote with Member Anaya abstaining.

- VII. C. CDRC CASE # APP 12-5040 (William Frederick Wagner) Appeal. The Homeowners/Landowners Of La Barbaria Trail, Appellants, (The Egolf Law Firm LLC.), Brian Egolf, Agent, Request an Appeal of the Land Use Administrator's Decision to Approve a Small Lot Family Transfer Land Division (Case # 11-3090 William Frederick Wagner) Of 31.824 Acres into Two Lots; One Lot Consisting of 20.990 Acres and One Lot Consisting of 10.834 Acres. The Subject Property Is Located At 45 La Barbaria Trail, Within Section 9, Township 16 North, Range 10 East, (Commission District 4). Wayne Dalton, Case Manager**

Mr. Dalton said new material regarding this case has arisen and he has not had the opportunity to review the new issues. The appellant is willing to waive the right to be heard within 60 days.

Brian Egolf, attorney for the appellants, stated they are willing to be heard at the next meeting thereby waived their right to be heard within 60 days.

Member Drobnis asked if there was anyone else wishing to be heard.

Joseph Karnes, counsel for the applicant, stated they consent to the continuation until April 19th.

- VII. A. CDRC CASE # V 11-5400 Jenny Cocq Variance. Jenny Cocq, Applicant, Matthew McQueen, (Attorney At Law), Agent, request a variance of Article III, §10 (Lot Size Requirements) of the Land Development Code to allow two dwelling units on 0.79 acres. The property is located at 131 County Road 84, in the vicinity of Jacona, within Section 12, Township 19 North, Range 8 East, (Commission District1)**

Mr. Dalton read the caption and gave the staff report as follows:

“The Applicant requests a variance of Article III, § 10 (Lot Size Requirements) of the Land Development Code to allow two dwelling units on 0.79 acres. There are currently four dwelling units on the property. The structures consist of a main residence, a studio and a garage. The studio has been converted into a dwelling with a kitchen and bathroom facilities. The garage which was permitted on May 2, 1994 has been converted into two dwelling units both having kitchen and bath facilities.”



Mr. Dalton clarified that on his site visit last week he noted that the 1994 permitted structure has one kitchen but has the capability of having two dwelling units.

“On October 10, 2011, Code Enforcement received a complaint on the subject property stating the property owner was exceeding density on the property. On October 18, 2011, Code Enforcement conducted an inspection and observed multiple dwelling units on the property. Code Enforcement then issued a Notice of Violation to the property owner for exceeding density.

“The Applicant states as a result of the lack of experience and some bad advice, the Applicant was encouraged to convert the two accessory structures into dwelling units. The Applicant now understands and acknowledges that this was in error. The Applicant proposes to remove the kitchen facilities from the studio and bring it into compliance for its original purpose as a working artist studio/office. The Applicant also proposes to convert the two dwelling units within the garage into a single dwelling unit for a total of two dwelling units on the property.

“The property is located within the traditional community of Jacona. Lot size per code is .75-acre per dwelling unit. The two proposed units exceed the number of units allowed on the subject property.”

Mr. Dalton stated staff recommends denial of a variance from Article III, §10, Lot Size Requirements, of the Land Development Code. If the decision of the CDRC is to recommend approval of the Applicant’s request, staff recommends imposition of the following conditions:

1. Water use shall be restricted to 0.25 acre-feet per year per home. A water meter shall be installed for each residence. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk’s Office.
2. The Applicant must obtain a development permit from the Building and Development Services Department for the second dwelling unit and the studio.
3. Prior to submitting for a Development Permit, an inspection must be conducted to ensure the additional kitchen facilities have been removed. This will consist of core filling drainpipes and capping all gas lines. Code Enforcement must be present at that time.
4. The Applicant shall provide an updated liquid waste permit from the New Mexico Environment Department with Development Permit Application.
5. The placement of additional dwelling units on the property is prohibited.
6. The Applicant shall comply with all Fire Prevention Division requirements.
7. No more than two electric meters shall be allowed on the property. Additional electric meters must be removed from property.

Matthew McQueen, agent for the applicant, said they were present seeking to correct an honest mistake. He said his client acknowledges she is currently not in compliance and would like to come into compliance without abandoning all of the

investment made into the property. He distributed letters of support from the neighbors.
[Exhibit 1]

Chair DeAnda asked for clarification on when the conversions were made. Mr. McQueen stated the house itself is around 200 years old and that is not in question. A studio was permitted and over time amenities were added. The other structure was originally permitted as a garage and that was also improved over time, perhaps in the year 2000. He said the permits were taken out in 1994.

Mr. McQueen said the variance is being requested to allow the garage building to be converted into one separate habitable unit.

Mr. Dalton referred to the packet to illustrate which building was permitted as a garage and which as a studio.

Member Anaya asked how much money had been invested in the conversions. Mr. McQueen said over time, probably \$60,000.

Member Anaya asked what the penalty for unpermitted construction was and Mr. Dalton said there is no fine per se. A person found to be in violation is given a certain amount of time to correct it. Upon further failure to comply they will be cited in magistrate court and the judge can assess fines. He explained that in this case there was a complaint, after which the applicant came into the County and was told she needed a variance.

Member Drobnis asked if this was a case of unusual topography. Mr. McQueen said it was not, it was a mistake made in good faith

Member Gonzales asked if the septic system was permitted and Mr. Dalton answered not at this point, however, they are working with NMED and they will have to submit the permit when it is granted. Fire Marshal inspection will be done at the time a permit for the conversion of the garage into a dwelling unit is issued. Additionally, he found no permit for the straw bale studio, so they would have to find that permit or take out an accessory structure permit on it.

Member Gonzales asked how the County deals with after-the-fact permit. Mr. Dalton said the same submittals are required as for a new structure.

Member Gonzales asked if there was a well on the property and Mr. Dalton said there was, and he did not think there were previous water restrictions. Member Gonzales asked how many neighbors there were in the area. Mr. Dalton said it is a traditional community so there are numerous neighbors. He referred to the aerial photograph and noted he received five certified mailing receipts for neighbors within 100 feet.

Mr. McQueen clarified that if the variance is granted the applicant will have to return for permits and will address water, septic and fire. Those permits cannot be granted prior to the granting of the variance. He noted there are five different owners within 500

feet although there are more than five abutting lots; some of the lots have the same owner. Mr. McQueen characterized the search for original documents as a “historical treasure hunt.”

Chair DeAnda asked when Ms. Cocq purchased the property. Mr. McQueen said 1992.

A discussion ensued regarding the aerial photograph and how many residences were in place on the various properties. Mr. Dalton speculated they could be legal non-conforming, accessory structures or they could be unpermitted construction.

Mr. McQueen showed the CID permit for the studio. Mr. Dalton said the studio permit does in fact have a County stamp issued May 19, 1994.

Discussing the plans for remediation, Mr. McQueen said his client plans to take the kitchen out of the studio but would like to keep the stainless steel sink for artist’s use.

The case was opened to the public and Mary Louise Williams was placed under oath. She said she has been a neighbor of Ms. Cocq for 23 years. She said Ms. Cocq originally moved in a young bride from Germany. Her husband worked at LANL. He was the one that made the building decisions. After the divorce Ms. Cocq was left to fend for herself as an artist. In her time in the area Ms. Cocq has become very much a part of the community in addition to becoming a US citizen. Any omissions that may have occurred were due to not understanding complex issues and there was no intent other than to make herself self-sufficient.

There was no one else wishing to speak and the public hearing was closed.

Member Katz asked when the divorce occurred and Mr. McQueen replied it was in 2008.

Member Gonzales commended staff for their work on this difficult case. Citing the compelling arguments and overwhelming community support he moved to grant the variance with staff conditions. Member Valdez seconded.

Chair DeAnda asked whether water conservation measures could be imposed. Mr. McQueen said they are working to track down well documents. Mr. Dalton said there is a quarter acre-foot restriction and within the water restrictions recorded with the County Clerk conservation measures such as low-flow toilets and rain barrels are specified.

The motion passed by majority 4-2 voice vote with Members Anaya, Gonzales, and Valdez and Chair DeAnda voting in favor and Members Drobnis and Katz voting against.

Mr. Dalton said the case will go to the BCC.

Matthew McQueen

PROFESSIONAL CORPORATION
ATTORNEY AT LAW

HAND DELIVERED

December 9, 2011

Wayne Dalton
Building & Development Supervisor
Santa Fe County Planning & Development Division
102 Grant Avenue
Santa Fe, NM 87501

*Re: Variance Application for Ms. Jenny Cocq, 131 County Road 84,
Vicinity of Jacona, Santa Fe County, New Mexico*

Dear Mr. Dalton:

Enclosed is the Ms. Jenny Cocq's application for a zoning variance for her property at 131 County Road 84 in Jacona.

As you know, the property has nonconforming structures. As the result of lack of experience and some bad advice, Ms. Cocq was encouraged to convert a permitted outbuilding horse/car shed/workshop into two distinct residential units. These two residential units were in addition to the main house (portions of which are believed to be over 200 years old) and a studio building (which had kitchen facilities added in and thus counts as a residential structure) for a total of four residential units. We understand and acknowledge that this was in error. In order to bring the property back into compliance, we propose three distinct actions:

First, remove the kitchen facilities from the studio and restore it to its original purpose as a working artist studio/office.

Second, convert the two residential units (formerly the shed/workshop) into a single residential unit.

Third, request a zoning variance for the additional residential unit (formerly the shed/workshop) thus reducing the number of "residences" on the property from four to two.

EXHIBIT

tabbles

2

Wayne Dalton
December 9, 2011
Page 2

I will be working with Ms. Cocq as we proceed with the goal of coming into compliance with the County Code while not fully abandoning the investments, or demolishing the improvements, that have been made to the property. Preserving the second residential unit (*i.e.*, the main house plus one residential unit) would, it is hoped, make it possible for Ms. Cocq's son to return from abroad and live on the property.

As you may recall, Ms. Cocq has some family obligations that she must attend to and will be out of the country from the middle of December through the end of January, but I will be available and we will both work with you and other County officials wherever possible to facilitate this process. Please note that we are still collecting information regarding the well and the septic system.

Thank you for your assistance thus far, and I look forward to working with you as the application proceeds through the system.

Sincerely,

MATTHEW MCQUEEN, P.C.



Matthew McQueen

Enclosures:

Application Form
\$100 Application Fee
\$25 Public Notice Board Fee
\$150 Variance Fee
Quitclaim Deed
Survey Plat
Vicinity Map

TYPE OF USE	NUMBER OF PARKING SPACES
Retail Centers	1 per 1 employee plus per 200 sq. ft.
Restaurants, Bars	1 per 1 employee plus per 150 sq. ft.
Gas Stations	1 per 1 employee plus 1 per 300 sq. ft. of garage space.
Industrial	1 per employee plus 1 per 500 sq. ft.
Small Scale Centers, Home Occupations	1 per 1 employee plus 1 per 400 sq. ft. of commercial space.
Large Scale Residential, Institutional, Residential Resorts	2 per dwelling unit
Churches, auditoriums, theaters, arenas, spaces used for public assembly	1 for each 4 seats
Uses not listed	As determined by the County

- 9.2 Multiple use projects shall calculate cumulative parking needs for each type of use in the project to be developed.
- 9.3 Minimum size of parking space shall be 300 square feet which includes the parking stalls and aisles.
- 9.4 Commercial, industrial, other non-residential and large scale residential uses shall provide for handicap parking.

History. 1980 Comp. 1980-6. Section 9, Parking Requirements was amended by County Ordinance 1990-11 adding requirements for auditorium uses, multiple uses and handicap access.

→ **SECTION 10 - LOT SIZE REQUIREMENTS**

10.1 Relationship of Lot Sizes to Water Policies

The General Plan sets forth the policy that future population growth in the County should be supported by adequate long term water availability and concentrate population growth in Urban and Metropolitan Areas and Traditional Communities. Development within these areas will generally be served by one or more regional water systems, or community water systems. Development outside of the Urban, Metropolitan Areas and Traditional Communities using domestic wells (Section 72-12-1 wells) should consider estimated long term water availability and protect water resources for existing County residents having domestic wells. Development may also be permitted if the applicant for a development permit demonstrates that he/she has water rights, excluding rights permitted under 72-12-1 NMSA 1978 or 75-11-1 NMSA 1953, recognized and permitted by the Director of Water Resources Department of Natural Resources Division of the State of New Mexico which are approved for transfer by the Director of Natural Resources Division to the site of the Development, and the permitted water rights are sufficient to support the proposed development.



10.1.1 Water Policies Governing Lot Sizes Where the Development will Utilize Permitted Water Rights

Applicants seeking a development permit may base their application on water rights authorized and permitted by the Director of Water Rights Division of the Natural Resources Department of the State of New Mexico, (with the exception of water rights permitted under Section 75-11-1 NMSA 1953 or 75-12-1 NMSA 1978). The applicant shall provide evidence that he/she owns or has an option to purchase the permitted water rights in an amount adequate to meet the needs of the development as shown by Article VII, Section 6.6.2, Water Budgets and Conservation Covenants. Any development permit approved and issued by the County shall be expressly conditioned upon the applicant obtaining final non appealable order or final non appealable approval from the Director of Water Rights Division of the Natural Resources Department of the State of New Mexico authorizing the change in use and change in point of diversion to meet the needs of the proposed development. The minimum lot size permitted by this Section shall be 2.5 acres, unless the proposed development is within an Urban, or Metropolitan Area or a Traditional Community, in which case further adjustments of the lot size shall be permitted as provided by Sections 10.4, 10.5.2 and 10.5.3.

10.1.2 Water Policies Governing Lot Sizes Where Developments Will Not Utilize Permitted Water Rights

BASIN ZONE: Minimum lot size shall be calculated based upon ground water storage only. Water that is in storage beneath the lot in the Basin Zone may be depleted over a 100-year lifetime. The lot must be large enough to have ground water in storage beneath the lot for a 100 year supply of water without consideration of recharge of the ground water.

BASIN FRINGE ZONE: Same as Basin Zone.

HOMESTEAD ZONE: Minimum lot size shall be calculated based either upon ground water storage or recharge of ground water, but not both. Water that is in storage beneath the lot in the Homestead Zone may be depleted over a 100 year lifetime. The lot must be large enough to have ground water in storage beneath the lot for a 100 year supply of water. Calculation of recharge in any specific case shall be done in a manner approved by the County Hydrologist. Recharge should be sufficient to supply water over a 100 year lifetime. However, applicants should be aware that studies done in the development of the General Plan indicated that in most areas of the Homestead Zone minimum lot sizes based on storage in this zone would be larger than those based on recharge.

MOUNTAIN ZONE: Same as Homestead Zone.

METROPOLITAN AREAS-BASIN AND BASIN FRINGE: For Basin and Basin Fringe zones within a Metropolitan Area as shown on Code Maps 12, 14 and 15, it is anticipated that regional water systems will eventually be developed. Therefore, water that is in storage beneath a lot within a Metropolitan Area may be depleted over a 40 year lifetime. The lot must be large enough to have ground water in storage beneath the lot for a 40 year supply of water without consideration of recharge of the ground water.

METROPOLITAN AREAS-HOMESTEAD AND MOUNTAIN ZONE: For Homestead and Mountain Zones within a Metropolitan Area, the minimum lot size shall be calculated based either upon ground water storage or recharge of ground water, but not

both. Water that is in storage beneath the lot in the Homestead Zone may be depleted over a 40 year lifetime. The lot must be large enough to have a ground water in storage beneath the lot for a 40 year supply of water. Calculation of recharge in any specific case shall be done in a manner approved by the County Hydrologist. Recharge should be sufficient to supply water over a 40 year lifetime. However, applicants should be aware that studies done in the development of the General Plan indicated that in most areas of the Homestead and Mountain Zones, minimum lot sizes based on storage in these zones would be larger than those based on recharge.

10.2 Calculation of Minimum Lot Size

Calculation of the minimum lot size under Section 10.1.2 shall be determined by the formula:

$$\frac{\text{Acre Feet}}{\text{Use (Year) x acres}}$$

Minimum Lot Size (Acres)=Water Available in acre feet per acre/year

$$\text{MLS} = \frac{U \times \text{acres}}{A}$$

Where:

MLS is the minimum lot size in acres; it is the size of a lot needed to supply anticipated water needs.

U is the anticipated water needs for the lot; it is the use of water which will occur from the intended development of the lot, measured in acre-feet per year. The standard values listed for A were derived using the procedures set forth in the water appendix of the Code. The standard value for U is set forth in Section 10.2.2. A is the amount of water available in the aquifers which are beneath the lot, measured in acre-feet per acre per year using recharge or storage as described in 10.1.2.

10.2.1 Standard Values for A and Adjustments. The standard values for A shall be as follows:

<u>BASIN ZONE:</u>	0.1 acre-feet per acre per year
<u>BASIN FRINGE ZONE:</u>	.02 acre-feet per acre per year
<u>MOUNTAIN ZONE:</u>	.0125 acre-feet per acre per year
<u>HOMESTEAD ZONE:</u>	.00625 acre-feet per acre per year

The minimum lot sizes which result from the use of these standard values are as follows:

<u>BASIN ZONE:</u>	10 acres
<u>BASIN FRINGE ZONE:</u>	50 acres
<u>MOUNTAIN ZONE:</u>	80 acres
<u>HOMESTEAD ZONE:</u>	160 acres

The standard values of A may be adjusted if the applicant submits a hydrology report, either a detailed report (see Section 6.4 of Article VII), or a reconnaissance report (see Section 6.7 of Article VII). Values of A determined in such reports shall be reviewed by the County Hydrologist, who shall recommend to the Code Administrator whether or not

the value is reasonable, and if not, shall recommend a value appropriate for the use in determining minimum lot size.

The actual value of A used shall be based on the information submitted by the applicant, by the County Hydrologist or by others submitting information. If water conservation measures are used, as provided in Section 10.2.4b, and an actual value of A is determined, in most cases minimum lot sizes will be reduced below those listed in Section 10.2.1. However, applicants are advised that because of varying geologic conditions in Santa Fe County there is no assurance that a hydrology report will determine that the water supply in an area is more abundant than indicated by the standard value of A. In cases where the actual study shows a value of A which is less than the standard value (that is, there is less water available than assumed by the standard value), minimum lot size requirements may be increased beyond those indicated in this Section.

10.2.2 Calculation of Use

U shall have a standard value of 1.0 acre feet per year per dwelling unit for residential use. For all other uses U shall be equal to the actual anticipated consumptive use for the development. The standard value for residential use may be adjusted if an applicant proposes to utilize water conservation measures. There shall be no adjustments for conservation in Urban, Traditional Community and Agricultural Valley Areas.

The Code Administrator shall maintain an application form upon which are listed potential water conservation measures. This form shall indicate the effect of each conservation measure on the value of U. As a minimum, the measures shall include: restrictions on use of water for irrigation purposes (including watering of lawns, gardens and shrubbery); restrictions on use of water for swimming pools; restrictions on the number of bathrooms per dwelling unit; restrictions on garbage disposal units; devices which reduce the utilization of water by appliances, kitchen fixtures, and bathroom fixtures; and pressure-reduction devices on in-coming water lines.

Any applicant who uses the application form as a basis for proposing conservation measures shall be allowed to reduce U in accordance with the effectiveness of the measures proposed. The maximum reduction in U which shall be considered achievable using this approach shall be a reduction of U to no less than 0.25 acre feet per year per dwelling unit. An applicant who proposes water conservation measures sufficient to reduce U to less than 0.25 acre feet per year per dwelling unit shall be required to prepare a water conservation report: See Section 6.6 of Article VII.

The actual value of U, and the minimum lot sizes which result, will depend on the conservation measures proposed by the applicant. In general, applicants who substantially restrict the use of irrigation (lawn and garden) water will be assumed to have a U of 0.5 acre feet per year per dwelling unit, while those who further restrict other types of water use will be assumed to require even less water. For reference purposes, the following lot sizes would be allowed if U is equal to 0.5 acre feet per year per dwelling unit.

<u>BASIN ZONE:</u>	5 acres
<u>BASIN FRINGE ZONE:</u>	25 acres
<u>MOUNTAIN ZONE:</u>	40 acres
<u>HOMESTEAD ZONE:</u>	80 acres

For reference purposes, the following lot sizes would be allowed if U is equal to 0.25 acre feet per year per dwelling unit.

<u>BASIN ZONE:</u>	2.5 acres
<u>BASIN FRINGE ZONE:</u>	12.5 acres
<u>MOUNTAIN ZONE:</u>	20 acres
<u>HOMESTEAD ZONE:</u>	40 acres

10.2.3 Special Standards for Calculation of Use for Small Scale Commercial Development

Special standards which set forth specific limitations on use for small scale commercial developments are set forth in this subsection. Applicants who propose small scale commercial development are required to prepare a written estimate of water use. The value of U shall be determined by that estimate unless otherwise determined by the Code Administrator. The Code Administrator shall have on file, a list of standard water consumption requirements for commercial activities. The applicant may use these figures in lieu of the written estimate of water use. Applicants may use standardized values for A as set forth in Section 10.2.2, or they may submit a hydrology report which contains an actual estimate of A for the land which is to be developed.

10.2.4 Special Standards for Calculation of Water Availability for Metropolitan Areas

Special standards which set forth limitations on water availability for metropolitan areas shown in Code Map 12, 14, and 15 are set forth in this Sub-section.

a. Standard Values of Water Availability

Because the policy for water management in Metropolitan areas allows for depletion of storage over a 40 year period, standard values for A are as follows:

<u>BASIN ZONE:</u>	.25 acre feet per acre per year
<u>BASIN FRINGE ZONE:</u>	.05 acre feet per acre per year
<u>MOUNTAIN ZONE:</u>	.0125 acre feet per acre per year

The minimum lot sizes which result from the use of these standard values are as follows:

<u>METRO BASIN ZONE:</u>	4 acres
<u>METRO BASIN FRINGE ZONE:</u>	20 acres
<u>METRO MOUNTAIN ZONE:</u>	80 acres

b. Adjustments for Water Conservation

For the division of land into four (4) or less lots, the minimum lot size may be adjusted using the procedures set forth in Section 10.2.2. For reference purposes, the minimum lot sizes which result if U = 0.25 acre feet per year per dwelling unit or commercial use are:

<u>BASIN ZONE:</u>	2.5 acres
<u>BASIN FRINGE ZONE:</u>	5 acres
<u>MOUNTAIN ZONE:</u>	20 acres

10.3 Exceptions to Minimum Lot Size Requirements

The minimum lot sizes calculated under Sections 10.1 and 10.2 shall not apply to the areas described in this Section and the minimum lot size contained in this Section shall control.

10.3.1 Metropolitan Area - Community Water Systems

Where a community water system provides water service to a development within the Metropolitan Areas, as shown on Code Maps 12, 14 and 15, the minimum lot sizes shall be:

<u>BASIN ZONE:</u>	1 acre
<u>BASIN FRINGE ZONE:</u>	2.5 acres
<u>MOUNTAIN ZONE:</u>	5 acres

10.3.2 Agricultural Areas

In the Estancia Valley Agricultural Area, minimum lot sizes shall be 50 acres for the Basin Fringe Zone and 10 acres for the Basin Zone. Adjustments for water conservation and water availability will not be allowed. In the Northern Valley Agricultural Area, the minimum lot size for lands with permitted water rights shall be five (5) acres. Adjustments to lot sizes in these areas are conditioned on the finding in each case by the County Development Review Committee that it is in the best interest of the County to convert water rights from agricultural to commercial or residential use.

10.3.3 Traditional Communities

The minimum lot size in traditional communities as shown on Code Maps 40-57, shall be .75 acres, except as follows:

14,000 sq. ft. - Where community water service and community sewer service systems are utilized, or a Local Land Use and Utility Plan is adopted.

10.3.4 Urban Areas

The minimum lot size in Urban Areas shall be 2.5 acres, except as follows:

1 acre - Where community water or community liquid waste disposal systems are utilized.

.50 acre - Where community water and community sewer systems are utilized.

10.4 Density Transfer

The minimum lot sizes specified in this Section 10 shall be taken as gross figures for the purposes of determining the total number of dwellings allowed in a particular development. The arrangement of dwellings in clusters or in such locations as to take advantage of topography, soil conditions, avoidance of flood hazards, access and reduced cost of development, shall not violate the lot size requirements of the Code so long as the total number of acres per lot conforms with the requirements of the Code.

SECTION 11 - IMPORTING OF WATER

11.1 Location Requirements

Developments which import water from the surface Rio Grande or other locations outside Santa Fe County to any location in Santa Fe County designated in the Development Code as other than urban or metropolitan locations are permitted to locate anywhere in the County provided they meet all requirements of the Code, except that in lieu of the density requirements as specified in Article III, Section 10, the proposed development shall meet the following criteria.