

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: September 11, 2012

TO: Board of County Commissioners

FROM: Wayne Dalton, Building and Development Services Supervisor *WD*

VIA: Vicki Lucero, Building and Development Services Manager *VL*
Penny Ellis-Green, Interim Land Use Administrator *PEG*

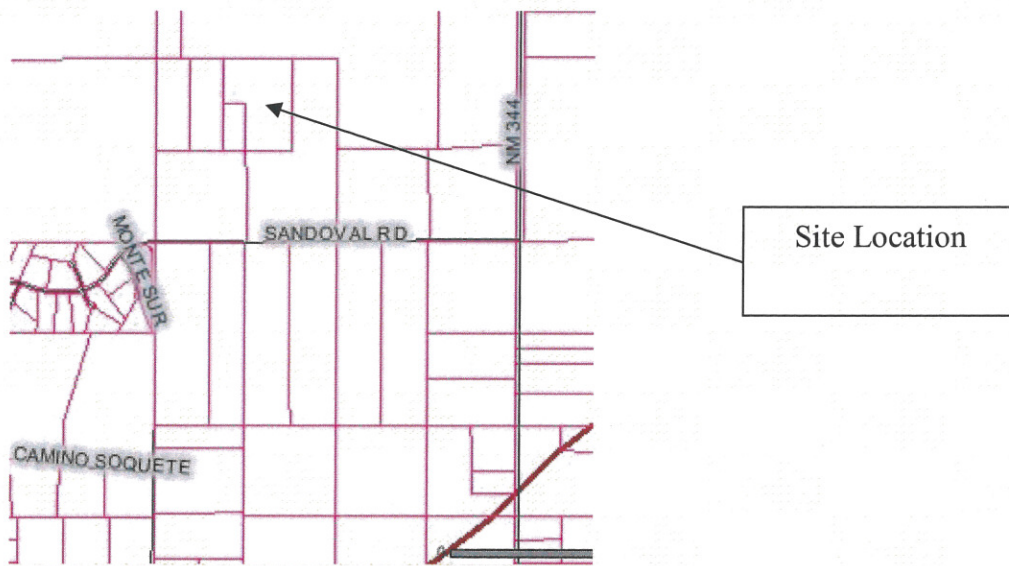
FILE REF.: CDRC CASE # V 12-5250 Carla Cavalier Variance

ISSUE:

Carla Cavalier, Applicant, requests a variance of Article III, §10 (Lot Size Requirements) of the Land Development Code to allow a Family Transfer Land Division of 25 acres into three 8.30 acre lots.

The property is located at 25 Sandoval Lane, in the vicinity of Edgewood, within Section 11, Township 11 North, Range 7 East, (Commission District 3).

Vicinity Map:



SUMMARY:

The Applicant requests a variance of Article III, § 10 (Lot Size Requirements) of the Land Development Code to allow a Family Transfer Land Division of 25 acres into three lots. There are currently two dwelling units, a garage and workshop on the property. The Applicants sister resides in one dwelling and the other is vacant. The Applicant intends to divide the property into three tracts, one tract would have two dwelling units and the other two tracts would be vacant. If this Application is approved, the vacant dwelling will have to be removed from Tract 3. Staff can find no evidence of permits for the two dwelling units, garage or workshop.

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

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” **The variance criteria does not consider financial or medical reasons as extraordinary hardships**

This Application was submitted on June 5, 2012.

On July 19, 2012, the CDRC met and acted on this case, the decision of the CDRC was to recommend denial of the Applicant’s request by a 4-3 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 to allow a Family Transfer Land Division of 25 acres into three 8.30 acre lots.

GROWTH MANAGEMENT AREA: Estancia, SDA-2

HYDROLOGIC ZONE: Homestead Zone, minimum lot size per Code is 160 acres per dwelling unit. Lot size can be reduced to 40 acres per dwelling with signed and recorded water restrictions. The request exceeds the minimum lot size requirement for this area.

FIRE PROTECTION: Edgewood District.

WATER SUPPLY: Domestic Well

LIQUID WASTE: Conventional Septic System

VARIANCES: Yes

| | | |
|-----------------------|---------------|-----------------------|
| AGENCY REVIEW: | <u>Agency</u> | <u>Recommendation</u> |
| | County Fire | Conditional |

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 Applicants request, staff recommends imposition of the following conditions:

1. Water use shall be restricted to 0.25 acre feet per year per lot. A water meter shall be installed for each lot. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office **(As per Article III, § 10.2.2 and Ordinance No. 2002-13).**
2. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval.
3. Further division of each Tract is prohibited; this shall be noted on the Plat. Only one dwelling unit shall be permitted on each lot **(As Per Article III, § 10).**
4. The Applicant must provide proof of permits or proof that the structures on the property are legal non-conforming. If the Applicant cannot provide proof that the structures are legal, than the Applicant must obtain After the Fact development permits **(As per As per Article II, § 4.5.2b Article II, § 2).**
5. The Applicant shall comply with all Fire Prevention Division requirements at time of Plat review **(As per 1997 Fire Code and NFPA Life Safety Code).**

EXHIBITS:

1. CDRC Meeting Minutes
2. Letter of request
3. Article III, §10 (Lot Size Requirements)
4. Article II, § 3 (Variances)
5. Site Photographs
6. Proposed Plat of Survey
7. Aerial of Site and Surrounding Area
8. Fire Prevention Division Review Letter

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

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

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

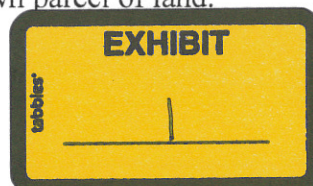
VIII. C. CDRC CASE # V 12-5060 Jay Shapiro Variance. Jay Shapiro, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow Two Dwelling Units on 10.21 Acres. The Property is Located at 94 Cloudstone Drive, within Section 5, Township 16 North, Range 10 East, (Commission District 4). Vicki Lucero, Case Manager. (TABLED)

VIII. D. CDRC CASE # V 12-5250 Carla Cavalier Variance. Carla Cavalier, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow a Family Transfer Land Division of 25 Acres into Three 8.30 Acre Lots. The Property is Located at 25 Sandoval Lane, in the Vicinity of Edgewood, within Section 11, Township 11 North, Range 7 East, (Commission District 3)

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

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

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



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

Mr. Dalton indicated staff was recommending denial of a variance from Article III, §10 (Lot Size Requirements) of the Land Development Code. If the decision of the CDRC is to recommend approval of the Applicants request, staff recommends imposition of the following conditions:

1. Water use shall be restricted to 0.25 acre feet per year per lot. A water meter shall be installed for each lot. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk’s Office (As per Article III, § 10.2.2 and Ordinance No. 2002-13).
2. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval.
3. ~~The placement of additional dwelling units or Division of land is prohibited on the property (As Per Article III, § 10).~~ Further division of each tract is prohibited. This shall be noted on the plat. Only one dwelling unit shall be permitted on each lot as per Article III, § 10. [Modified at staff report.]
4. The Applicant must provide proof of permits or proof that the structures on the property are legal non-conforming. If the Applicant cannot provide proof that the structures are legal, than the Applicant must obtain after-the-fact development permits (As per As per Article II, § 4.5.2b Article II, § 2).
5. The Applicant shall comply with all Fire Prevention Division requirements at time of Plat review.(As per 1997 Fire Code and NFPA Life Safety Code).

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

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

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

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

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

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

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

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

There was no one from the public wishing to speak.

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

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

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

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

~~VIII. E. **CDRC CASE # APP 12-5110 William Frederick Wagner Appeal.**
William Frederick Wagner, Applicant, (Sommer, Karnes & Associates, LLP), Joseph Karnes, Agent, Request an Appeal of the Land Use Administrator's Decision to Deny a Family Transfer Land Division (Case # 11-3090) of 31.824 Acres into Two Lots; One Lot Consisting of 20.990 Acres and One Lot Consisting of 10.834 Acres. The Property is Located at 45 La Barbaria Trail, within Section 9, Township 16 North, Range 10 East, Commission District 4~~

~~Mr. Dalton gave the staff report as follows:~~

Wayne Dalton

From: Carla Cavalier [cmaec@live.com]
Sent: Saturday, June 30, 2012 11:48 AM
To: Wayne Dalton
Subject: LETTER OF INTENT - CARLA CAVALIER

June 5, 2012

ATTENTION: Wayne Dalton, Building Development Services Supervisor, Santa Fe County, Growth Management Department

This is a request for an approval for a Family Transfer for a minimal lot size to be divided equally to the children of Mariano Sandoval (aka Marion Sandoval).

We bring this humble request of a family generation of this property with a note that the children are three (3) adult head of households requesting to own the parcel under their own name.

Thank you for your consideration in this matter.



| 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.

EXHIBIT

3

III - 88

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.

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

