

DRAFT

subject to approval

MINUTES OF THE
SANTA FE COUNTY
DEVELOPMENT REVIEW COMMITTEE

Santa Fe, New Mexico

July 17, 2014

This meeting of the Santa Fe County Development Review Committee (CDRC) was called to order by Chair Dan Drobnis, on the above-cited date at 4:00 p.m. at the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Roll call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

Members Present:

Dan Drobnis, Chair
Susan Martin, Vice Chair
Bette Booth
Louie Gonzales
Frank Katz

Member(s) Excused:

Manuel Roybal
Phil Anaya

Staff Present:

Penny Ellis-Green, Growth Management Director
Rachel Brown, Deputy County Attorney
Vicki Lucero, Building and Development Services Manager
Vicente Archuleta, Development Review Team Leader
Buster Patty, Fire Marshal
John Lovato, Development Review Specialist

IV. APPROVAL OF AGENDA

Ms. Lucero noted that New Business item B, CDRC Case #S 12-5424, Cielo Colorado Estates, has been tabled as noted in the amended agenda.

Upon motion by Member Katz and second by Member Martin the agenda as amended was unanimously approved 5-0.

V. **APPROVAL OF MINUTES: June 19, 2014**

Member Martin moved to approve the May minutes. Member Katz seconded and the motion passed by unanimous [5-0] voice vote.

VI. **NEW BUSINESS**

- A. **CDRC CASE # V 14-5200 Rita Madril Variance.** Rita Madril, Applicant, Annette Madril Martinez, Agent, 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 2.12 acres into two lots consisting of 1.06 acres each. The property is located at 29 Corral Blanco Rd. within the vicinity of the I-25 East Frontage Road, within Section 4, Township 15 North, Range 8 East, Commission District 4

Case Manager John Lovato reviewed the staff report as follows:

“The subject lot was created in 1976 and is recognized as a legal non-conforming lot. The 1976 survey plat shows the lot along with a 40-foot road easement on the southern boundary and a 30-foot road and utility easement on the eastern boundary. The Applicant has owned the lot since 1990. There are currently two legal non-conforming residences on the property. The Applicant has submitted an aerial photo dated 1979, showing both residences on the property.

“Currently, there are no water restrictions on this parcel. The allotted use for legal non-conforming residences is 1 acre-foot per year. The Small Lot Family Transfer will require water restrictions of .25 acre-feet per year for each lot. There are existing lots that range from 1 acre to 2.8 acres within the vicinity.

“The Applicant states a variance is needed due to her medical health conditions. The Applicant also states there have always been two homes on the property and she would like to give her daughter half the property with one of the homes, to alleviate the financial burden and maintenance of the property. The Applicant intends to split the lot into two equal parcels.

“Growth Management staff have reviewed this Application for compliance with pertinent Code requirements. The project does not comply with density requirements of the Code.”

Mr. Lovato indicated that staff recommends denial of a variance of Article III, Section of the Land Development Code for a Small Lot Family Transfer Land Division of 2.12 acres into two lots. In the event the CDRC approves the variance staff proposed the imposition of six conditions.

Member Gonzales asked whether the new County plan would permit this variance request. Ms. Lucero said the SLDC does not change the density in the area.

Mr. Lovato confirmed that the two residences use the same well and he was unaware of any problems with the well.

Duly sworn, Annette Madril Martinez, agent and applicant's daughter, said with the death of her father it has been difficult for her mother to maintain the entire 2.12-acre property. Ms. Martinez said she and her husband have been helping her mother with the property. She noted that she provided an aerial photo showing there were two residences on the property in 1979 and other than the lot split, nothing would change.

Ms. Martinez said her mother requires financial assistance as well as physical help maintaining the property. Her parents assumed the property consisted of two legal lots of record but only recently learned different. She said her neighbors have been helpful and many have smaller lots than what they will be creating.

Responding to questions posed by the CDRC, Ms. Martinez said her mother lives in one of the residences and her brother the other. Her brother would stay on the property and she and her husband would own the parcel he lives on. Her mother will stay on the property in her home and in the event her brother moves off the property, Ms. Martinez said they would probably rent it.

Ms. Martinez said they have never had any problems with the well. If required to install a second septic system they will do so.

There was no one in the public wishing to speak to this issue.

Stating the request did not meet the legal standard for the variance nor was there a persuasive explanation to grant the variance, Member Katz moved to accept the recommendation of staff and deny #V 14-5200. Member Martin seconded and the motion passed by majority [4-1] voice vote with Member Gonzales voting against.

B. BCC CASE # Z/V 13-5131 Ranch at Santa Fe Canyon Master Plan Amendment. Ranch at Santa Fe Canyon, LLC (formerly known as Santa Fe Canyon Ranch, LLC), Applicant, requests a Master Plan Amendment to the previously approved master plan (Santa Fe Canyon Ranch) to remove six tracts of land (containing 845 acres) from the approved Master Plan which consisted of a total of 1,316 acres. The request also includes a variance of Article VII, Section 6.6.2g (Water Budgets and Conservation Covenants) and Ordinance No. 2007-1 (Swimming Pool Ordinance) to allow the installation of one swimming pool on the 845 acres utilizing permitted water rights and to amend the water restrictive covenants to reflect the allowance of a swimming pool and to specify that water restrictions for landscaping and irrigation restrictions shall apply to 72-12-1 wells only. The property is located off Entrada La Cienega along Interstate 25 in the La Cienega/La Cieneguilla Traditional Historic Community within Sections 1, 2, 10, 12, 13, Township 15 North, Range 7 East and Sections 5, 6, 7, 8, Township 15 North, Range 8 East, Commission District 3 [*Exhibit 1: Staff report revisions and Declaration of Covenants and Water Restrictions; Exhibit 2: La Cienega Valley Association support letter; Exhibit 3: El Guicu Irrigation Association support letter*]

Mr. Archuleta recited the case caption and reviewed the staff report as follows:

“On September 10, 2013, the Board of County Commissioners approved a 2-year Time Extension of the previously approved Master Plan for the Santa Fe Canyon Ranch Residential Subdivision consisting of 162 lots, 174 residential units on 1,316 acres to be developed in three phases.

“On September 30, 2008, the Board of County Commissioners granted Master Plan approval for a residential subdivision consisting of 162 lots/174 residential units on 1,316 acres to be developed in three phases. At the time of approval the Applicant proposed to construct a new on-site community water system. “Since the time of approval, Santa Fe County has purchased approximately 470.55 acres of the 1,316 acres. The property is made up of three Tracts which consist of Tract G, 188.70 acres; Tract H, 141.47 acres; and Tract I, 140.38 acres now known as La Bajada Ranch.

“The Applicant is now requesting a Master Plan Amendment to the previously approved master plan to remove six tracts, Tracts 4-A through 4-F, of land from the approved Master Plan which consisted of a total of 1,316 acres. The remainder of the Master Planned area would remain intact.”

Mr. Archuleta identified a Master Plan as comprehensive in establishing the scope of a project, yet less detailed than a Development Plan. It provides a means for the County Development Review Committee and the BCC to review projects and the sub-

divider to obtain concept approval for proposed development without the necessity of expending large sums of money.

He said the Applicant is also requesting a variance of Article VII, Section 6.6.2g, Water Budgets and Conservation Covenants, and Ordinance No. 2007-1, Design, Construction, Operation, Replacement and Maintenance of Swimming Pools within the Unincorporated Ares of Santa Fe County, to allow the installation of one swimming pool on the 845 acres utilizing permitted water rights and to amend the water restrictive covenants to reflect the allowance of a swimming pool and to specify that water restrictions for landscaping and irrigation restrictions shall apply to 72-12-1 wells only.

Mr. Archuleta reviewed Article VII, Section 6.6.2g which states swimming pools, of a permanent or temporary nature are not permitted, except as commercially operated or publicly open community facilities.

Mr. Archuleta said staff reviewed this application for Code compliance and finds the master plan amendment is in compliance with County criteria. The request for the variance is not in compliance. Staff states that the Application for the Master Plan Amendment is in conformance with Article V, Section 5.2.1b of the Land Development Code. The remainder of the Master Plan can function as its own development; the remainder is a viable phase and meets the uses and density requirements of the Code. Staff recommends approval of the Master Plan Amendment.

The water rights have been transferred to the entire property and can be used for domestic purposes. Staff recommends that the Covenants and Water Restrictions on the property may be revised to reflect the full amount of the permitted water rights. Staff does not recommend approval of the variance to allow the installation of one swimming pool.

If the decision of the CDRC is to recommend approval of the variance for the swimming pool, staff recommends the following condition be imposed:

1. The Applicant must use water rights for the pool.

Referring to Exhibit 1, revised staff report, Mr. Archuleta noted that under the Declaration of Covenants and Water Restrictions, items G and H, the phrase “No more than one” will be eliminated and “if water is supplied from a NMSA Section 72-12-1 (1978) well” is added to items A, G, J, L and N, prior to forwarding this case to the BCC, Mr. Archuleta said specific covenant language will require further revision.

Appearing as applicant and duly sworn, Rick Borrego said they were currently under contract to sell the property to an individual who proposes to build a horse facility and home. At this point there are no guesthouses in the plans. The buyer has concerns about the County-imposed water restrictions and the amendments to the covenants seek to address those concerns. The property contains 14.25 acre-feet of consumptive water rights and the buyer wants to use those rights to support the equestrian facility without being encumbered by the restrictive water covenants.

Mr. Borrego said the buyer wants to construct a swimming pool that he noted would have a dual function of water storage in the event of a fire. The buyer further desires to be removed from the master plan.

Mr. Borrego clarified that the property contains four wells and the water rights can be pulled from one of the wells. Currently, the water rights are being used for livestock and agriculture.

Referring to the covenants, Mr. Archuleta said item A is not in its final format and will require additional editing. He asked that the CDRC review and take action on letters J and N. If the swimming pool variance is approved, staff will develop language to reflect that the pool utilizes permitted water rights.

Ms. Ellis-Green said the proposed covenants will allow the potential buyer to have a swimming pool if permitted water rights are applied rather than a 72-12-1 well. She confirmed that the request is for one pool.

Member Katz pointed out that while the request may state one pool the covenants clearly do not. Ms. Ellis-Green said the covenants can be amended to reflect that point.

Member Martin expressed concern that the covenant of revision that removes the requirements for low-water use and xeriscaping.

Ms. Brown said that is the applicant's request that staff does not support. Staff recommends that the covenant's water conservation remain in effect.

Ms. Ellis-Green indicated that the SLDC reiterates the current code prohibiting pools on lots created after 1996. The existing water conservation covenants in the current code do not differentiate between permitted water rights and a standard domestic 72-12-1 well

Concurring with Member Martin's concern about the landscaping/watering, Member Katz asked the buyer's agent why they wanted relief from xeriscaping.

Kyle Harwood, counsel representing the buyer, stated the changes were suggested with staff support weeks ago and the buyer agreed to them. The licensed rights would provide greater flexibility to the property and the highlighted sections in the covenants were an artifact of the meeting with staff. It was later, stated Mr. Harwood, that staff determined that they were unable to support that change. Mr. Harwood said he hadn't been able to talk with his client but he believed removing the highlighted language on J and N would be acceptable.

Mr. Harwood added that the water rights are fully licensed – the gold standard for water rights. If the CDRC were to approve the changes as proposed by staff, Mr. Harwood stated he would contact his client in the interim before the case reaches the BCC.

Mr. Harwood stated that the request is for one swimming pool.

Mr. Harwood pointed out that the La Cienega Valley Association (LCVA) provided a letter of support as did an acequia association and as he understood from Mr. Borrego that is a notable departure from how this property project was greeted in the past.

According to Mr. Harwood, 72-12-1 is the statute reference, and water lawyers refer to 72-12-1 wells as essentially exempt from water rights. The State Engineer permits, especially in rural areas, one 72-12-1 well for a legal lot of record. With a 72-12-1 well a property can be improved without water rights: It is exempt from water rights and used with regulations for domestic purposes.

The buyer will not be utilizing a 72-12-1 well and instead using water rights/licensed right.

Member Gonzales asked whether the six lots of the master plan would be consolidated by the buyer. Mr. Harwood responded that they were not consolidating the lots. The buyer's intention is to build a family home, a barn, a field and move his family and business here. His client is seeking removal from the master plan to avoid the requirements and proceed to build his home, etc.

Chair Drobnis asked what version of the Declaration of Covenants and Water Restrictions for Santa Fe Canyon Ranch did the LCVA and El Guicu Irrigation Association review that resulted in letters of support. Mr. Harwood said they reviewed the intent of the buyer. Mr. Borrego said he distributed a copy of the amended covenants and restrictions with the yellow highlights.

Duly sworn, JJ Gonzales of La Cienega, a member of both associations that support the request, said the applicant provided notice of the request and met with the area residents. According to what was told to the community there would be one owner of the 845 acre parcel with one house. He understood from the buyer's agent that they may downzone the property to build a dozen homes, but they would keep it as a working ranch.

Considering that La Cienega has had a long history with this ranch, Mr. Gonzales said removing 845-acres from development made it easy for the associations to support a swimming pool.

Under oath, Linda Grill representing the El Guicu Irrigation Association, thanked Mr. Harwood and Mr. Borrego for coming to the community with the proposal. The association supports the request. She said this is a good deal for La Cienega, the closest community to the ranch property as is El Guicu ditch.

There were no other speakers and Chair Drobnis closed the public hearing and suggested the application be acted upon in segments, amendment to the master plan, variance for the swimming pool and the revisions to the Declaration of Covenants and water restrictions.

Member Katz introduced the following motion: Regarding case Z/V 13-5131 approve the removal of the six tracts of land from the master plan. Member Booth seconded and the motion passed by unanimous [5-0] vote.

Member Katz moved to approve a variance for the installation of one and only one swimming pool on the 845 acres/six parcels. Member Gonzales seconded.

Ms. Ellis-Green inquired if the motion restricted the applicant to using water rights for the pool. Member Katz confirmed it did and Member Gonzales concurred.

Commending La Cienega for its support of the application and recognizing it was preferable to the original multiple home development, Ms. Martin said she would oppose it because the SLDC – a product of careful and thoughtful consensus – prohibits pools. The variance would nullify the code.

Chair Drobni repeated the motion to grant the variance for one and only one pool on the 845-acre tract using available water rights. The motion passed by majority [4-1] voice vote with Member Martin voting against.

Member Katz moved to deny the covenant revision to J and thus require the applicant to abide by landscaping irrigation and xeriscaping principles however water is supplied.

Prior to obtaining a second, Ms. Brown asked whether the other covenant revisions were accepted.

Ms. Ellis-Green pointed out that revised item A fundamentally removes water restrictions because water rights rather than a 72-12-1 well will be utilized. She said staff supports that and will work with the applicant to develop language allowing the applicant to fully utilize the permitted water rights.

Member Katz said his motion did not prohibit the applicant from using water rights, rather he wanted to insure they would adhere to xeriscaping principles and appropriate irrigation in regards to landscaping. He agreed that A could be amended prior to presentation to the BCC.

Member Katz said J deals with landscaping and his motion did not prohibit the applicant from growing crops.

Member Gonzales seconded.

Member Martin said she supports the motion but in the interest of consistency and the fact it lifts the restriction on swimming pools she will oppose the motion.

The motion passed by majority [4-1] voice vote with Member Martin voting against.

E. PETITIONS FROM THE FLOOR

None were presented

F. COMMUNICATIONS FROM THE COMMITTEE

None were presented.

G. COMMUNICATIONS FROM THE ATTORNEY

None were presented

H. COMMUNICATIONS FROM STAFF

None were presented.

I. NEXT CDRC REGULAR MEETING: August 21, 2014

J. ADJOURNMENT

Having completed the agenda and with no further business to come before this Committee, Chair Drobnis declared this meeting adjourned at approximately 5:25 p.m.

Approved by:
County Development Review Committee

Dan Drobnis, Chair

ATTEST TO:

COUNTY CLERK

Before me, this ____ day of _____, 2014.

My Commission Expires:

Notary Public

Respectfully submitted by:


Karen Farrell, Wordswork



concept approval for proposed development without the necessity of expending large sums of money for the submittals required for a Preliminary and Final Plat approval”.

The Applicant is also requesting a variance of Article VII, Section 6.6.2g (Water Budgets and Conservation Covenants) and Ordinance No. 2007-1 (Design, Construction, Operation, Replacement and Maintenance of Swimming Pools within the Unincorporated Ares of Santa Fe County) to allow the installation of one swimming pool on the 845 acres utilizing permitted water rights and to amend the water restrictive covenants to reflect the allowance of a swimming pool and to specify that water restrictions for landscaping and irrigation restrictions shall apply to 72-12-1 wells only.

Article VII, Section 6.6.2g states: Swimming pools, of a permanent or temporary nature are not permitted, except as commercially operated or publicly open community facilities.” Ordinance No. 2007-1states: “This Ordinance shall only apply to lots of record created prior to the enactment of the Santa Fe County Land Development Code, Ordinance No. 1996-10.

This Application was submitted on June 10, 2014.

Growth Management staff have reviewed this Application for compliance with pertinent Code requirements and finds the Master Plan Amendment is in compliance with County criteria for this type of request.

The request for the Variance is not in compliance with County criteria for this type of request.

APPROVAL SOUGHT: Master Plan Amendment to the previously approved master plan (Santa Fe Canyon Ranch) to remove six tracts of land (containing 845 acres) from the approved Master Plan which consisted of a total of 1,316 acres. The request also includes a variance of Article VII, Section 6.6.2g (Water Budgets and Conservation Covenants) and Ordinance No. 2007-1 (Swimming Pool Ordinance) to allow the installation of one swimming pool on the 845 acres utilizing permitted water rights and to amend the water restrictive covenants to reflect the allowance of a swimming pool and to specify that water restrictions for landscaping and irrigation restrictions shall apply to 72-12-1 wells only.

GROWTH MANAGEMENT AREA: El Centro, SDA-2

STAFF RECOMMENDATION: The Application for the Master Plan Amendment is in conformance with Article V, Section 5.2.1b of the Land Development Code. The remainder of the Master Plan can function as its own development, the remainder is a viable

phase and the remainder meets the uses and density requirements of the code. Staff recommends approval of the Master Plan Amendment.

The water rights have been transferred to the entire property and can be used for domestic purposes. Staff recommends that the Water Restrictions on the property within the property may be revised to reflect the full amount of the permitted water rights.

Staff does not recommend approval of the variance to allow the installation of one swimming pool.

If the decision of the CDRC is to recommend approval of the variance for the swimming pool, staff recommends the following condition be imposed:

1. The Applicant must use water rights for the pool.

EXHIBITS:

1. Letter of Request
2. Existing Master Plan
3. Santa Fe County Plat
4. September 10, 2013 BCC Meeting Minutes
5. Aerial Photo of Site

WestlawNext

§ 3-53-2.1. Water resources; county or municipal requirements
West's New Mexico Statutes Annotated Chapter 3 Municipalities Effective: June 15, 2007 (Approx. 2 pages)

West's New Mexico Statutes Annotated
Chapter 3. Municipalities
Article 53. Waters; Regulation of Use

Effective: June 15, 2007

N. M. S. A. 1978, § 3-53-2.1

§ 3-53-2.1. Water resources; county or municipal requirements

Currentness

A. For the purpose of preserving and protecting water resources and to provide an assured water supply for the community, a county or municipality may require:

- (1) site development standards to conserve water and minimize water loss;
- (2) water harvesting and storage;
- (3) low water use landscaping and plant materials;
- (4) nonagricultural residential and commercial water use limitations; or
- (5) recycling and reuse of water.

B. The provisions of this section shall be implemented consistent with state engineer rules.

C. Agricultural water users or agricultural water rights owners are excluded from the provisions of Subsection A of this section.

Credits

Added by L. 2007, Ch. 120, § 1, eff. June 15, 2007.

NMSA 1978, § 3-53-2.1, NM ST § 3-53-2.1

Current through laws of the 2nd Regular Session of the 51st Legislature (2014), effective May 21, 2014

End of Document

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DECLARATION OF COVENANTS AND WATER RESTRICTIONS
FOR _____ TRACT

(Section __, T__N, R__E)

THIS DECLARATION is made in Santa Fe, New Mexico, this __ day of __, 200__ by _____ hereinafter for convenience referred to as the "Owner(s)".

WITNESSED THAT:

WHEREAS, _____ are the owners of real property in Santa Fe County, New Mexico, which property includes __ lots containing a combined total of ____ acres, more or less, according to the plat entitled _____ referred to hereinafter at Article I; and

WHEREAS, the Owners are required to provide for certain water conserving covenants and measures as required per the Santa Fe County Land Development Code; and

WHEREAS, the Owners desire and intend that the owners, tenants, mortgagees, occupants and other persons hereinafter acquiring any interest in said property shall at all times enjoy the benefits of, and shall hold their interest subject to, the rights and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan for the proper and beneficial use of the property.

NOW THEREFORE, the Owners declare, covenant, and agree as follows:

ARTICLE I

Property Subject to this Declaration

The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is legally described as _____ and containing a combined total of ____ acres, more or less, in Section __, Township __ North, Range __ East, N.M.P.M., Santa Fe County, New Mexico, according to the Plat of Survey for _____ by _____, N.M.L.S. # _____, dated _____, 200__, recorded _____, 200__, under reception No. _____, Plat Book _____, Page _____, in the records of Santa Fe County, New Mexico (the "Plat").

ARTICLE II

Water Restrictive Covenants

The following water restrictive covenants shall apply to the use and occupancy of all lots on the plat noted above. (Any Existing dwelling units shown on the plat must meet provisions (B) through (J) at the time of fixture or appliance replacement or installation of additional landscaping; provisions A, K and L are applicable immediately.)

- (A) Domestic water use from a NMSA § 72-12-1 (1978) well is restricted to ___ acre-feet per year (___ gallons per year) per lot/tract as required by the Santa Fe County Land Development Code.
- (B) Water conserving appliances and fixtures as outlined in Ordinance 2002-13 shall be installed and used at the time of construction or replacement.
- (C) Toilets shall use no more than 1.6 gallons per flush. Urinals shall use no more than 1.0 gallon per flush.
- (D) Lavatory and kitchen faucets shall be equipped with aerators and faucet flows shall not exceed 2.5 gallons per minute. Showerhead-flows shall not exceed 2.5 gallons per minute.
- (E) Hot water pipes shall be insulated.
- (F) Evaporative coolers must circulate bleed-off water.
- (G) No more than one automatic dishwasher per dwelling unit may be used if water is supplied from a NMSA § 72-12-1 (1978) well, provided that it is a model designed to use no more than 13 gallons per cycle and shall have a cycle adjustment, which allows reduced amounts of water to be used for reduced loads.
- (H) No more than one automatic clothes washing machine per dwelling unit may be used, provided that it is a model that uses no more than 43 gallons per cycle and shall have a cycle or water level adjustment that permits reduced amounts of water to be used for reduced loads.
- (I) Water system leaks from private water lines shall be repaired by the owner or property manager within fifteen (15) days of initial notification by the County or the owner's knowledge of the leak. Proof of repair shall be provided to the County upon completion of the repair when such notification is requested.
- (J) To the extent water is being used from a NMSA § 72-12-1 (1978) well, low water use landscaping techniques applying the principles of xeriscaping shall be utilized. Drip irrigation and mulching are encouraged whenever possible. Low water use grasses, trees and shrubs may be watered as needed during the first and second years of their growth to become established. Thereafter, such vegetation shall receive only minimal water as needed by each species.
- (K) Planting sod or grass seed that contains Kentucky bluegrass is not permitted. Lawns of other non-native grasses shall not exceed 800 square feet per parcel and shall only be watered with rainwater collected by means confined to the property or with recycled household gray water. Gray water systems shall meet the requirements of the New Mexico Environment Department and the Uniform Plumbing Code.
- (L) Swimming pools, of a permanent or temporary nature, are not permitted if water is supplied from a NMSA § 72-12-1 (1978) well. Temporary wading pools of a diameter not to exceed eight feet and a depth not to exceed one foot and covered spas are acceptable at each dwelling unit. All existing swimming pools, hot tubs and spas must be covered to prevent evaporation when not in use. Swimming pools may only be emptied once a year.
- (M) All wells on the property shall be metered with a Santa Fe County approved totalizing meter. Meter readings shall be documented by the property owner annually within two weeks of January 1st. Meter readings shall be submitted to Santa Fe County by April 30th of each year. Proof of meter installation as well as a meter reading must be submitted with a Santa Fe County Development Permit application. Failure to meter and measure water use may be grounds for fines and denial of future land use development permits.
- (N) Outdoor Irrigation from a NMSA § 72-12-1 (1978) well is prohibited between 11am to 7pm from May through September of each year. The following sources and water and types of irrigation methods are exempt from the irrigation hour restrictions:
 - a.) Plants being irrigated for retail or wholesale transactions.
 - b.) All manual watering by landscape maintenance and contracting personnel, however landscaping personnel setting timed irrigation systems must ensure that the systems comply with the irrigation hour restrictions.
 - c.) Any water derived through rainwater catchment systems or any permitted water re-use system and
 - d.) Any water being used from an acequia or other agricultural irrigation system.

ARTICLE III

General Provisions

3.1 Duration; Covenants Running with the Land. The covenants of this Declaration shall run with and bind the land, shall inure to the benefit of and be enforceable by the owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns and the County Land Use Administrator.

3.2 Enforcement. Enforcement of these covenants and restrictions shall be by the County Land Use Administrator or any owner of property as shown on the Plat in any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction or to restrain any such violation. Any failure by the County Land Use Administrator or any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. If the County Land Use Administrator or an owner prevails in any action against any person or persons to enforce any provision hereof, they shall be entitled to recover from such person or persons his costs and reasonable attorneys fees.

3.3 Severability. The invalidity or unenforceability of any covenant, restriction, term or other provision hereof as determined by a court of competent jurisdiction shall not impair or adversely affect the validity or enforceability of any other covenant, restriction, term or provision hereof, which shall be and remain valid and enforceable to the fullest extent permitted by law.

3.4 Miscellaneous. This Declaration shall be governed by and interpreted under the laws of the State of New Mexico. This Declaration shall be binding upon each tract owner, his successors and assigns.

IN WITNESS WHEREOF, the Owners have caused this Declaration to be signed as of the date first above written.

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

On this _____ day of _____, 200____, the foregoing instrument was acknowledged before me by the person(s) whose name(s) appear above.

Notary Public

My commission expires:

APPROVED BY COUNTY LAND USE ADMINISTRATOR

Jack Kolkmeier

La Cienega Valley Association
PO Box 23554
Santa Fe, New Mexico 87502
Preserving Our Rural Way of Life



July 14, 2014

Vincent Archuleta, Case Manager
Growth Management Department
Santa Fe County
102 Grant Avenue
Santa Fe, N.M. 87501

CDRC CASE # Z/V 13-5131

Dear Mr. Archuleta:

At the La Cienega Valley Association (LCVA) Board meeting on July 7, Mr. Rick Borrego, representing The Ranch at Santa Canyon explained the purpose and intent of CDRC CASE#Z/V 13-5131 in which the developers/owners are requesting a master plan amendment to separate 6 tracts (845 acres) from the approved master plan for the Santa Fe Canyon Ranch development. In addition the developers/owners are requesting a variance of the ordinance regarding certain existing water budgets and water conservation requirements and a variance of the ordinance restricting the construction of a swimming pool. Mr. Borrego explained that the requested actions were conditions of a purchase agreement the developers/owners have entered into for the sale of the entire 845 acres to a single family which includes all water rights associated with the development. Also attending LCVA Board meeting was Kyle Harwood representing the prospective buyers.

After series of questions from both the LCVA Board and residents attending the meeting the LCVA Board agreed to fully support the separation of the 6 tracts from approved master plan for the Santa Fe and to not oppose the requested variances. As explained to the LCVA Board the 845 acres is to be purchased by one family with the intent of constructing a main house and a guest house and maintaining the property as a horse ranch. The LCVA appreciates maintaining the property as a horse ranch and the commitment to sustaining its ranching history and traditions. The LCVA Board understands the request for the variance to the development related water budget and water conservation requirements and looks forward to working with the prospective new owners in effort for them to fully understand the water challenges facing our community. The request for a swimming pool is unopposed based on the ability to minimize water usage and evaporation through proper pool maintenance and care.

In conclusion the LCVA Board recognizes and embraces the opportunity to protect this special 845 acres as a ranch, a single family ranch when the original approved master plan for Santa Fe Canyon Ranch allowed for as many as 18 homes on this same property. The acquisition of the water rights is also appreciated and the LCVA Board understands the acquisition does bring into question the water rights available for the County owned La Bajada Ranch

Please let us know if you require any additional information.

Sincerely,

Carl Dickens, President
La Cienega Valley Association

July 17, 2014



Mr. Brian Egaly:

The El Guico Irrigation Association supports division of Land from the County.

El Guico also supports possible purchase of Barneys land to be sold and home and swimming pool being built in this property.

Sincerely,
Linda Neil
Secretary - Treasurer

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: August 21, 2014

TO: County Development Review Committee

FROM: Mathew Martinez, Development Review Specialist *NEM*

VIA: Penny Ellis-Green, Growth Management Director *PEG*
Vicki Lucero, Building and Development Services Manager *VL*
Wayne Dalton, Building and Development Services Supervisor *WD*

FILE REF.: CDRC CASE # V 14-5190 Pablo & Maria Cerquera Variance

ISSUE:

Pablo & Maria Cerquera, Applicants, request a variance of Ordinance No. 2007-2 (Village of Agua Fria Zoning District), Section 10.6 (Density and Dimension Standards), to allow three dwelling units on 0.962 acres.

The property is located within the Traditional Community of Agua Fria, at 2247 Paseo De Tercero within Section 5, Township 16 North, Range 9 East, (Commission District 2).

Vicinity Map:



Site Location

NBA-1

SUMMARY:

The subject lot was created in 1991, by way of Family Transfer and is recognized as a legal lot of record. The Applicants have owned the property since 1994. There are currently two dwelling units on the property. Currently the Applicants and their family reside in one of the existing homes and the other is occupied by tenants. The Applicants have stated the proposed home will also be occupied by tenants until such time their children are of age (adults).

The Applicants request a variance of Ordinance No. 2007-2, (Village of Agua Fria Traditional Community Zoning District), § 10.6 (Density and Dimension Standards), to allow three dwelling units on 0.962 acres. The Applicants state a variance is needed in order to develop the remaining portion of the property. The Applicants intend to place an additional manufactured home on the property to provide them with additional income and for future use for their children. The property is lacking approximately 0.038 acres or 1,152 square feet in order to meet Code requirements for a third dwelling unit.

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 criterion does not consider financial or medical reasons as extraordinary hardship.**

This Application was submitted on June 25, 2014

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 of Ordinance No. 2007-2 (Village of Agua Fria Zoning District), § 10.6 (Density and Dimension Standards), to allow three dwelling units on 0.962 acres. The request does not meet the minimum lot size requirements for this area.

GROWTH MANAGEMENT AREA: SDA-2

HYDROLOGIC ZONE: Traditional Community of Agua Fria, minimum lot size per Code is 0.75 acres per dwelling unit. Lot size can further reduced to 0.33 acres per dwelling unit with Community Water and Community Sewer. **The property is served by both Community Water and Sewer.**

FIRE PROTECTION: Agua Fria

WATER SUPPLY: Agua Fria Community Water System (AFCWS)

LIQUID WASTE: City of Santa Fe Sewer System

VARIANCES: Yes

AGENCY REVIEW: Agency: Fire Prevention Recommendation: Comments not received

STAFF RECOMMENDATION: **Denial of a variance of Ordinance No. 2007-2 (Village of Agua Fria Zoning District), § 10.6 (Density and Dimension Standards) to allow three dwelling units on 0.962 acres.**

If the decision of the CDRC is to recommend approval of the Applicants' request, staff recommends imposition of the following conditions:

1. The Applicant shall comply with all applicable water conservation measures. (As per Ordinance No. 2002-13).
2. The Applicant must obtain a development permit from the Building and Development Services Department for the additional dwelling unit. (As per Article II, § 2).
3. The placement of additional dwelling units is prohibited on the property. (As per Ordinance No. 2007-2 § 10.6).
4. The Applicant shall comply with all Fire Prevention Division requirements at time of development permit Application (As per 1997 Fire Code and NFPA Life Safety Code).

EXHIBITS:

1. Letter of request
2. Ordinance No. 2007-2 § 10.6 (Density and Dimension Standards)
3. Article II, § 3 (Variances)
4. Site Plan
5. Site Photographs
6. Aerial of Site and Surrounding Area

June 5, 2014

Santa Fe County
P.O. Box 276
Santa Fe, NM87504

To whom it may concern:

It is our intent to ask the County of Santa Fe to allow us a variance for a third unit on our property in the Village of Agua Fria. The regulations require three units per one acre. The piece of property, left to us by our parents, is just shy at .962 acres.

At present, we are residing on 1/3 of this property and have a single wide mobile home on 1/3. We would like to develop the remaining property to place a mobile home for needed income and for future use for our children.

We have access to Agua Fria Community water and City sewer. We ask that you consider this variance being that it would not interfere with our neighbors or community.

Thank you for your consideration to this matter.

Sincerely,



Pablo and Maria Cerquera
Ph: 903-714-6894



NBA - 4

10.6 Density and Dimensional Standards

The following table illustrates the dimensional standards that apply in the Village of Agua Fria Zoning District. Measurements and exceptions to the standards of this schedule are listed in the table notes.

Commentary: The density and dimensional standards set forth in this section are not a guarantee that stated development density and intensities can be attained. Other factors—water and other public facility availability, infrastructure capacity, building layout, physical limitations, and parking configuration to name a few—may have the effect of limiting development intensity more than the stated standards.

Village of Agua Fria Zoning District															
Sub districts	Minimum Lot Area/Principal Use (acres) (1)							Max. Coverage (%)		Max. Height (ft)			Min. Setbacks (ft) (2)		
	Base Density/Intensity		Water Cons.	Long Term Water	Community Services			Residential Uses	Non-residential Uses	Residential Uses		Non Res Uses	Front & Street Side	Interior Side	Rear
	Res Uses	Non Res Uses			Water	Sewer	Both W&S			SF	MF				
AFTCZD	.75	.75			.75	.75	0.33		40	24	24	24	0	5	5
AFLDUZ	2.5	2.5			1	1	0.5		20	24	24	24	0	20	20

Notes:
 (1) Where adequate water is available, minimum lot area may be reduced by employing water conservation measures and reducing water use. Further reductions may be achieved by submitting proof of adequate long term water availability, connecting to community water, community sewer or both (W&S), all in accordance with Article III, Section 10, Lot Size Requirements of the Code or, such additional density bonus and lot size provisions of County Ordinance 2006-02, Affordable Housing.
 (2) Setbacks shall be measured from the property line or from the edge of the road easement where the property line is inside the road easement.



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

SITE PLAN

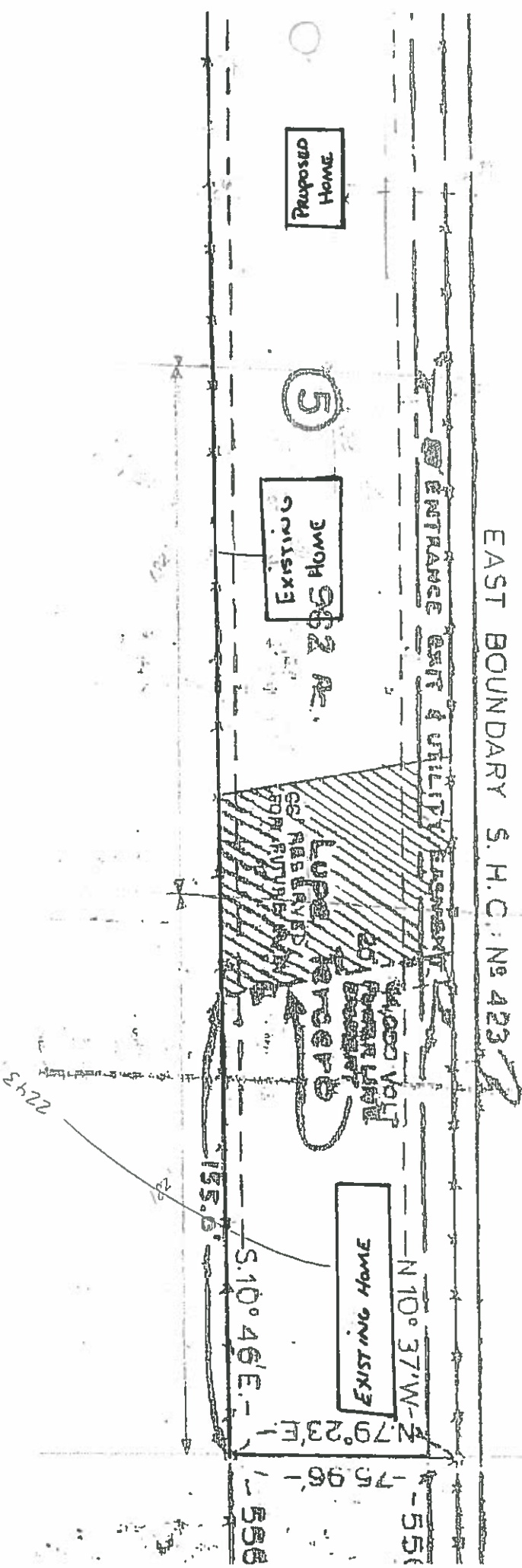


EXHIBIT
4.

NBA-7

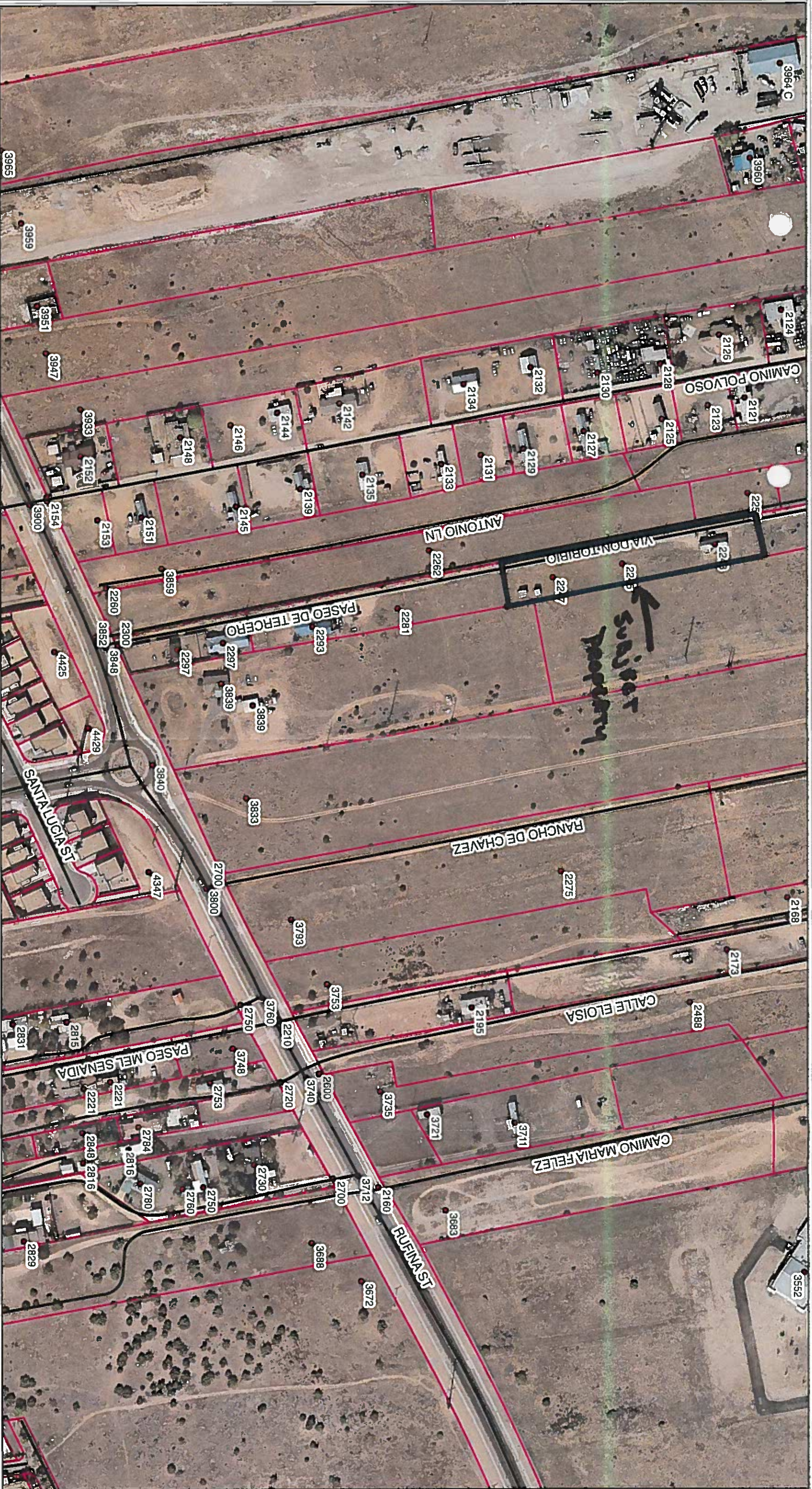


EXHIBIT
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WGA-7





Legend

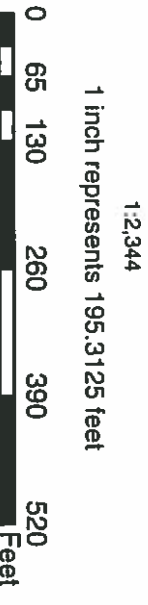
ROADS

PARCELS

tabbles

EXHIBIT

6.



Word Imagery
2 FOOT CONTOURS

This information is for reference only.
Santa Fe County assumes no liability for
errors associated with the use of these data.
User are solely responsible for
confirming data accuracy.



August 4, 2014

NBA-10

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE August 21, 2014

TO: County Development Review Committee

FROM: Mathew Martinez, Development Review Specialist *MEM*

VIA: Penny Ellis-Green, Growth Management Director *VE for*
Vicki Lucero, Building and Development Services Manager *VL*
Wayne Dalton, Building and Development Services Supervisor *WD*

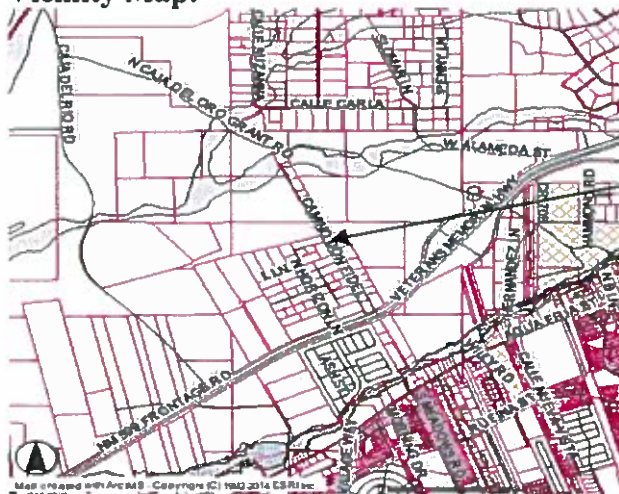
FILE REF.: CDRC CASE # V 14-5230 Sam Mendoza Variance .

ISSUE:

Sam Mendoza, Applicant, requests a variance of Article II, Section 4.3.3bii (Small Lot Family Transfers), of the Land Development Code to allow a Small Lot Family Transfer of 2.79 acres into two lots prior to being in the possession of the family proper for a five year period.

The property is located at 58 Camino Don Fidel, off the 599 West Frontage Road, within Section 36, Township 17 North, Range 9 East, (Commission District 2).

Vicinity Map:



Site Location

SUMMARY:

The subject lot was created in April 2005, by way of Family Transfer and is recognized as a legal lot of record. The Applicant has owned the property since March 18, 2014. Since the Applicant has only owned the property for a five month period, the property is not eligible for a Small Lot Family Transfer. The property is currently vacant.

Article II, 4. § 3.3bii (Small Lot Family Transfers) of the Land Development Code states 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

The Applicant is requesting a variance of Article II, § 4.3.3bii (Small Lot Family Transfers), of the Land Development Code to allow a Small Lot Family Transfer of 2.79 acres into two lots prior to possessing the property for a five year period. The Applicant states a variance is needed in order to give property to his grandchildren. The Applicant purchased the property with the intent of giving his oldest granddaughters a piece of property of their own. This would allow his grandchildren to reside next to and support each other after the passing of their mother.

Article II, § 3 (Variances) of the County Land Development 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 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. **The variance criteria does not consider financial or medical reasons as extraordinary hardships**

This Application was submitted on July 8, 2014.

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

APPROVAL SOUGHT:

Approval of a variance of Article II, § 4.3.3.b.ii (Small Lot Family Transfers), of the Land Development Code to allow a Small lot Family Transfer of 2.79 acres into two lots prior to being in possession of the Family Proper for a five year period.

GROWTH MANAGEMENT AREA: SDA-2

HYDROLOGIC ZONE: Basin Zone, minimum lot size per Code is 10 acres per dwelling unit. Lot size can be reduced to 2.5 acres per dwelling with signed and recorded water restrictions. Lot size can be further reduced to 1.25 acres per dwelling via Small Lot Family Transfer. Currently the lot is restricted to 0.25 acre feet per year.

FIRE PROTECTION: Agua Fria.

WATER SUPPLY: Domestic Well, only one well shall be permitted to serve this lot. The well shall be subject to a shared well agreement.

LIQUID WASTE: Conventional Septic System

VARIANCES: Yes

AGENCY REVIEW: Agency: Fire Prevention Recommendation: Comments not received

STAFF RECOMMENDATION: Denial of a variance of Article II, § 4.3.3.b.ii (Small Lot Family Transfers), of the Land Development Code to allow a Small Lot Family Transfer of 2.79 acres into two lots prior to being in possession of the Family Proper for a five year period.

If the decision of the CDRC is to approve the Applicants request, staff recommends imposition of the following conditions:

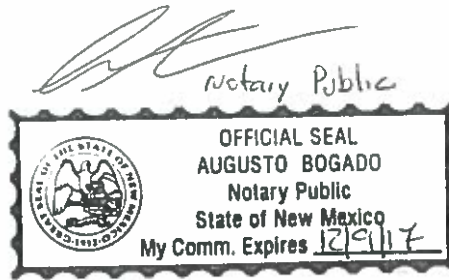
- 1. Water use shall be restricted to 0.25 acre feet per year per lot. A water meter shall be installed for each lot. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk’s Office (As per Article 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 (As per Article III, § 2.4.2).
- 3. Future division of either tract is prohibited: this shall be noted on the plat. (As per Article III, § 10).
- 4. The Applicants 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. Letter of request
2. Article II, § 4.3.3bii (Small Lot Family Transfers)
3. Article II, § 3 (Variances)
4. Site Photographs
5. Site Plan
6. Aerial of Site and Surrounding Area

July 9, 2014

Santa Fe County
Bldg. & Dev. Svcs. Division
Santa Fe, NM



RE: Letter of Intent

In November of 2013, our daughter Marcia Ortiz passed away leaving behind 5 children. We purchased the property at 58 Camino Don Fidel for the purpose of buying it for two of her daughters (Feliz Larranaga and Jaylene Rodriguez) the oldest of 4 of Marcia's daughters. They do not have anyone else in their lives who will help them own a piece of property in order to take care of the younger 2 sisters. We want them to live next door to each other so that they can continue to support each other in the future. That is why we are asking for a variance on this property. It is 3 acres and we believe 1 1/2 acres would suffice for them to build and/or set a mobile home on this property. We would appreciate your consideration on this hardship case for our grandchildren.

Respectfully yours,

Samuel Mendoza
Samuel Mendoza

Gloria Mendoza
Gloria Mendoza

7/8/14
Date

23 Paseo de San Antonio
Address Santa Fe, NM 87507



NBS-5

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.

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.

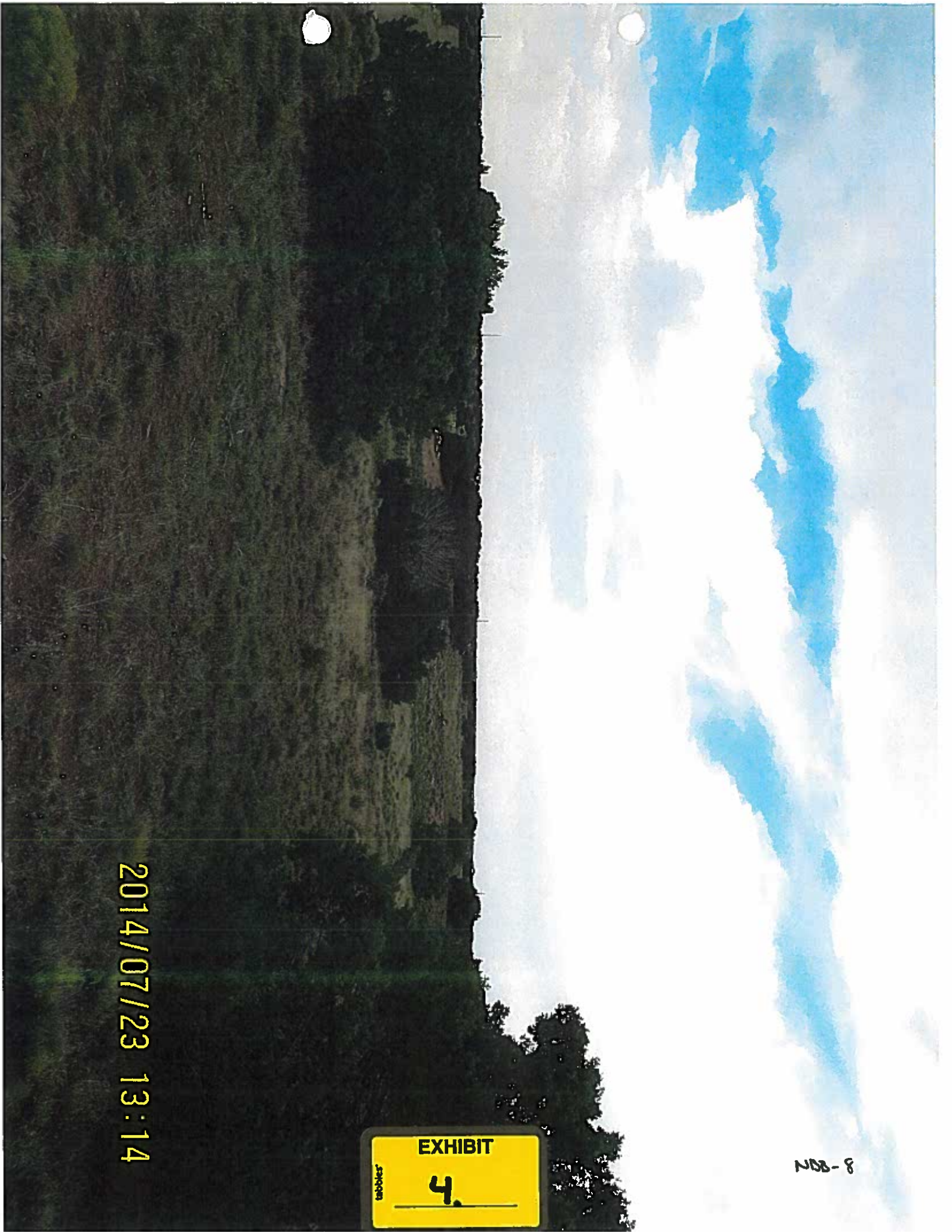
3.4 Height Variance in Airport Zones

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

EXHIBIT

3.

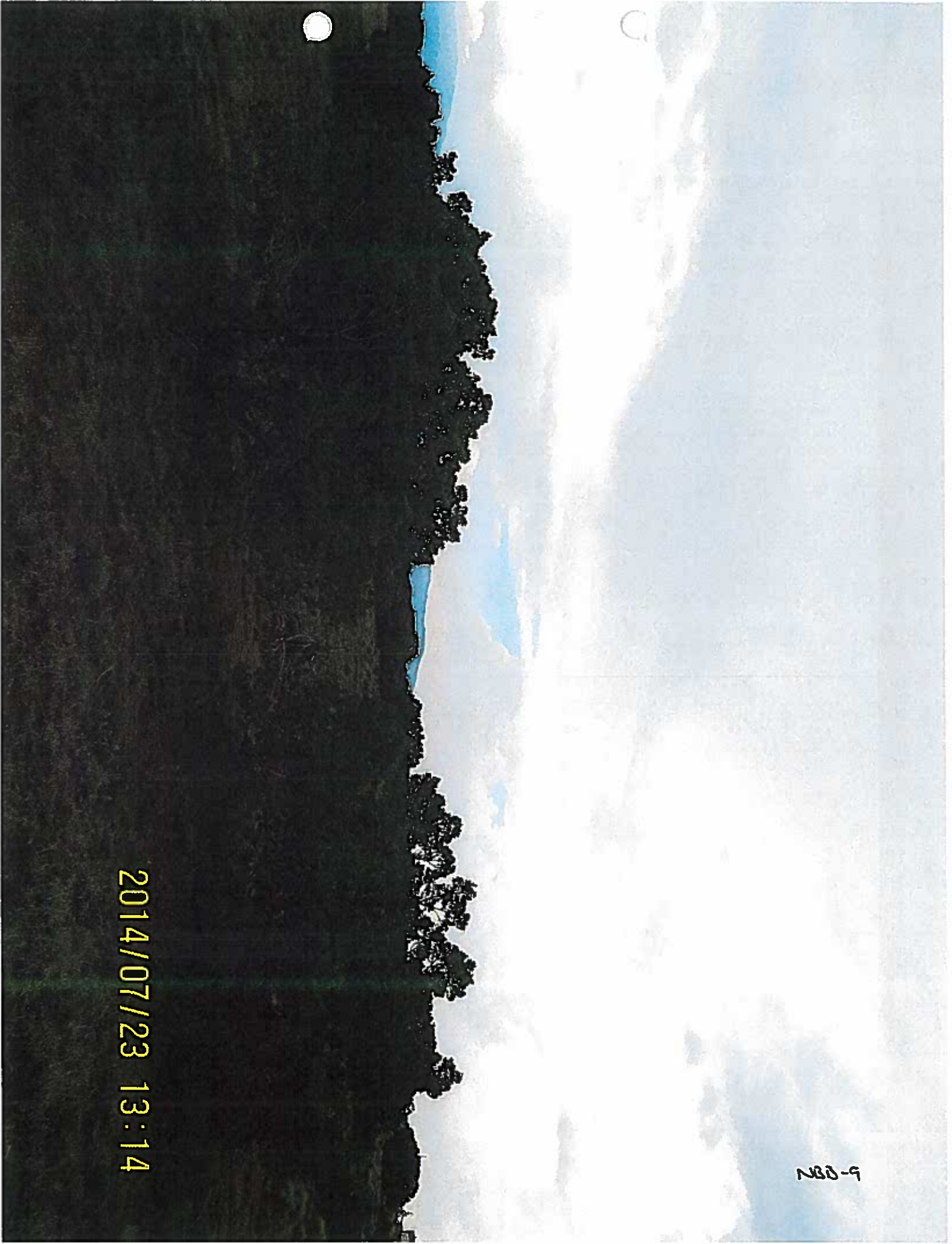
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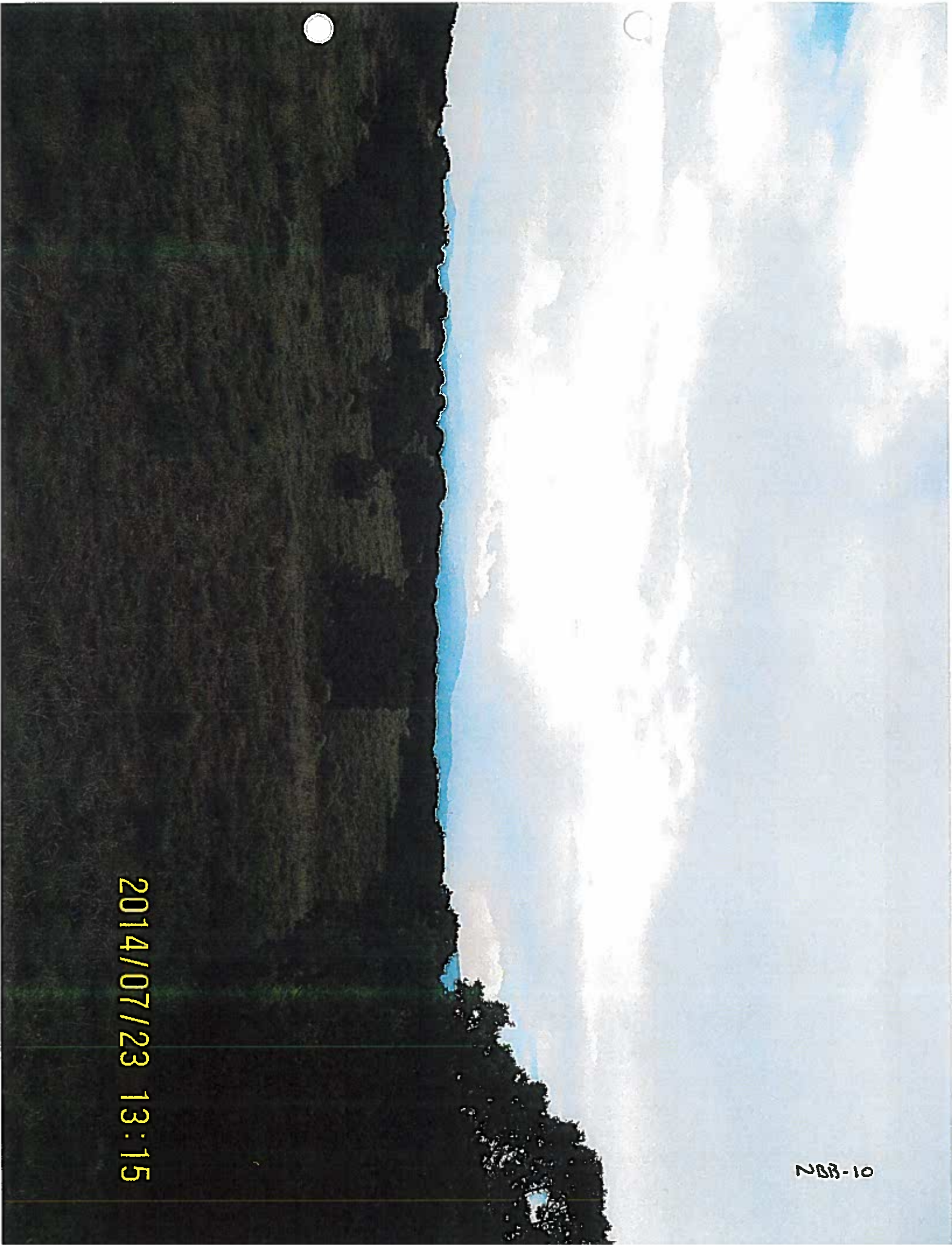
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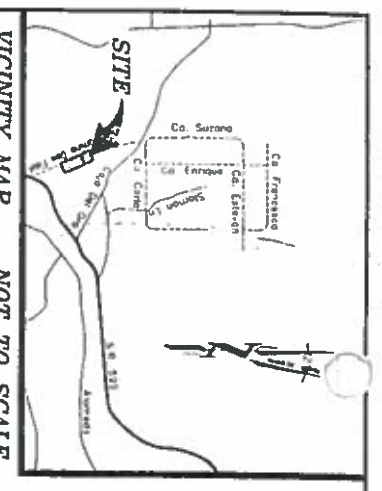
N88-9

2014/07/23 13:14



NBB-10

2014/07/23 13:15



VICINITY MAP NOT TO SCALE

LEGEND / PLAT REFERENCE

- INDICATES POINT FOUND AND USED AS NOTED
- INDICATES BRASS CAP MONUMENT FOUND
- INDICATES SET REBAR WITH CAP, L.S. NO. 13811
- INDICATES CALCULATED POINT NOT SET
- INDICATES UTILITY POLE OR CHASED UTILITY LINE
- POLE CUT ANCHOR WHERE APPLICABLE
- INDICATES UTILITY RISER
- INDICATES 3x3 UTILITY BOX
- INDICATES FENCE LINE

BEARINGS ARE BASED ON THAT PLAT TITLED "PLAT OF SANTA FE FOR FIDEL LOPEZ ET AL, SMC NO. 706 IN SEC. 36, T17N, R8E, BY GEORGE RIVERA, MAP'S NO. 3749, DATED JULY 10, 1975, RECORDED IN BOOK 042 PAGE 012, AS RECEPTION NO. 379744, IN THE SANTA FE COUNTY CLERK'S OFFICE, NEW MEXICO. (DATA AS SHOWN)

UTILITY COMPANIES

THE UNDERSIGNED UTILITY COMPANIES HEREBY ACKNOWLEDGE THE EXISTENCE AS MARKED AND DESCRIBED ON THIS PLAT.

DATE 4-20-05

PRV - ELECTRICAL SERVICES

QUEST COMMUNICATIONS

QUEST COMMUNICATIONS, Inc. Disclaimer

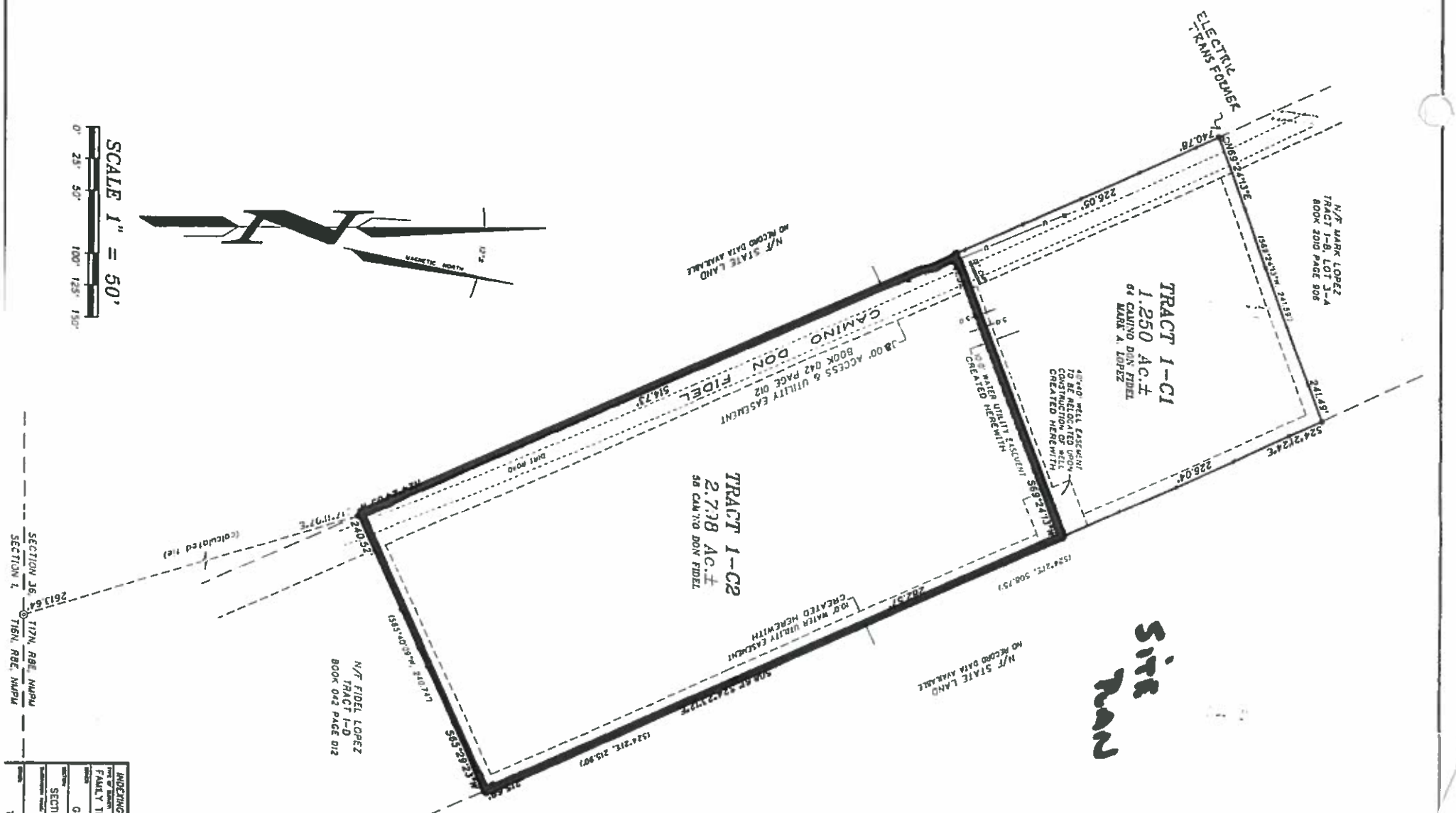
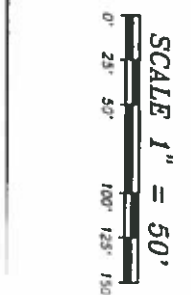
The plat has been approved for easement purposes only. The plat does not in any way guarantee the location of the easement.

EXHIBIT 5

SURVEYOR'S CERTIFICATE

HEREBY CERTIFY THAT THIS PLAT AND THE SURVEY ON WHICH IT IS BASED WAS MADE BY ME OR UNDER MY PERSONAL DIRECTION AND CONTROL AND THAT THE DATA SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT THE SURVEY WAS MADE IN ACCORDANCE WITH THE STANDARDS FOR LAND SURVEYS IN NEW MEXICO AS ADOPTED BY THE PROFESSIONAL LAND SURVEYORS REGISTRATION BOARD FOR PROFESSIONAL FIELD WORK PERFORMED ON FEBRUARY 1, 2005.

PAUL A. RODRIGUEZ, N.M.P.S. No. 1111



COUNTY NOTES AND CONDITIONS (cont'd.)

WATER SUPPLY ON THESE LOTS ARE COVERED BY THE EXISTING TERRAIN ZONING ORDINANCE, SECTION 10.1.1. THIS ONLY ONE WELL SHALL BE PERMITTED TO SERVE THESE LOTS. THIS WELL SHALL BE SUBJECT TO SHARED WELL AGREEMENT. DRILLING OF ANY NEW DOMESTIC WELL IS PROHIBITED IF RECORD WATER IS AVAILABLE WITHIN 200 FEET OF THESE LOTS. IF RECORD WATER BECOMES AVAILABLE DOMESTIC WELL USE SHALL CEASE WITHIN 90 DAYS AND THESE LOTS SHALL CONNECT TO THE RECORD WATER SYSTEM.

ALL WELLS DRILLED ON THESE LOTS POST JANUARY 1, 2000 SHALL BE REGISTERED WITH THE COUNTY CLERK'S OFFICE WITHIN 10-15 DAYS OF COMPLETION. THE REGISTERED WELL MUST BE IN ACCORDANCE WITH THE TERRAIN ZONING ORDINANCE, SECTION 10.1.1.1. THE REGISTERED WELL MUST BE IN ACCORDANCE WITH THE TERRAIN ZONING ORDINANCE, SECTION 10.1.1.1. THE REGISTERED WELL MUST BE IN ACCORDANCE WITH THE TERRAIN ZONING ORDINANCE, SECTION 10.1.1.1.

EXISTING NATURAL DRAINAGE WAS NOT BE IMPROVED OR IMPROVED OR COUNTY HYDROLOGICAL DEVELOPMENT PERMIT REQUEST OR FLOW PATTERNS OR PATTERNS TO OR FROM THESE LOTS. THESE LOTS ARE SUBJECT TO SANTA FE COUNTY FEE AND RESCUE IMPACT FEES AT THE TIME OF APPLICATION FOR BUILDING PERMIT.

E.C.G. SIGNATURE

ACCEPTED BY THE TERRAIN ZONING COMMISSION AT ITS MEETING ON: _____ DATE: _____

Theresa Long
CHAIRMAN
4-21-05

CITY OF SANTA FE REVIEW

DATE: 4/21/05

Gregory S. ...
SUBDIVISION ENGINEER
DATE: 4/20/05

CITY NOTES AND CONDITIONS

TERRAIN MANAGEMENT REGULATIONS (SECTION 12 OF THE EDO) SHALL BE COMPLIED WITH AT THE TIME OF BUILDING PERMIT APPLICATION FOR EACH LOT.

SAVING SEWERS ARE NOT AVAILABLE TO SUBJECT PROPERTY. ON-SITE SEWER DISPOSAL SYSTEM MUST BE PERMITTED AND APPROVED BY THE NEW MEXICO ENVIRONMENTAL DEPARTMENT.

PRIVATE ACCESS ROADS SHALL BE DEVELOPED IN COMPLIANCE WITH BUYERS/SELLERS OF THIS PROPERTY SHOULD INQUIRE WITH THE NEW MEXICO ENVIRONMENTAL DEPARTMENT REGARDING FEASIBILITY AND SUITABLE FOR A CONVENTIONAL SEPTIC SYSTEM OR IF AN ALTERNATIVE SYSTEM IS REQUIRED.

DEDICATION

THAT THE UNDERSIGNED OWNER(S) AND PROPRIETOR(S) HAS CAUSED TO BE DEPOSITED IN THE COUNTY OF SANTA FE, NEW MEXICO AND BEING APPEARS ON THIS PLAT IS MADE WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNER(S) AND PROPRIETOR(S). THESE LANDS ARE WITHIN THE PLANNING AND ZONING JURISDICTION OF THE CITY AND COUNTY OF SANTA FE, NEW MEXICO. THE UNDERSIGNED OWNER(S) AND PROPRIETOR(S) HEREBY GRANTING FOR ALL DISTING LIMITS.

DATE: 4/20/05

DATE: 4/24/05

Paul A. Rodriguez
DATE: 4-20-2005

OFFICIAL SEAL
PAUL A. RODRIGUEZ
STATE OF NEW MEXICO
COUNTY CLERK
SANTA FE COUNTY
12-21-02

SANTA FE COUNTY APPROVAL

DATE: 4/21/05

Theresa Long
DATE: 4/21/05

COUNTY NOTES AND CONDITIONS

ACCORDING TO FEMA FLOOD INSURANCE RATE MAP COUNTY PANEL NO. 32000B 0164 B AND 32000B 0223 B, THE PROPOSED TRACTS ARE DESIGNATED FLOOD ZONE X AREAS DETERMINED TO BE OUTSIDE THE 500-YEAR FLOOD PLAIN.

WATER WELL WITHDRAWAL ON THESE TRACTS ARE RESTRICTED BY CONVEYANCES AS FILED IN THE OFFICE OF THE COUNTY CLERK, IN BOOK NO. 1376 775 ON 4/5/05

AS RECEPTION NO. 1376 775 ON 4/5/05

PURSUANT TO THE SANTA FE COUNTY LAND DEVELOPMENT CODE, THE SOILS RAINING ON THIS PROPERTY IS DESIGNATED AS BEING MODERATE TO SEVERE EROSION. LIMITATIONS TO SEPTIC TANKS, POTENTIAL NEW MEXICO ENVIRONMENTAL DEPARTMENT WHEN THE TRACTS ARE SUBJECT TO A CONVENTIONAL SEPTIC SYSTEM OR IF AN ALTERNATIVE SYSTEM IS REQUIRED.

SANTA FE COUNTY'S APPROVAL OF THIS SURVEY PLAT DOES NOT CONSTITUTE AN ENDORSEMENT OF THE PRIVATE EASEMENTS (OR EASEMENTS) OR RIGHTS. IT IS REQUIRED THAT OF SAID PRIVATE DEVELOPMENT PERMIT BE APPLIED FOR AND THEN APPROVED BY THE SANTA FE COUNTY LAND USE ADMINISTRATOR.

THIS PROPERTY IS SUBJECT TO ALL RESTRICTIONS, RESERVATIONS, AND EASEMENTS OF RECORD WHICH PERTAIN.

THE APPROVAL OF THIS PLAT DOES NOT CONSTITUTE THE APPROVAL OF ANY FURTHER DEVELOPMENT, INCLUDING BUILDING PERMITS.

NEW DRIVEWAY/ROAD ACCESS FROM CAMINO DON FIDEL IS SUBJECT TO APPROVAL BY THE PUBLIC WORKS DIRECTOR. THE DIRECTOR SHALL APPROVE THE LOCATION AND INSTALLATION OF A CURB AS PERMITTED BY SANTA FE COUNTY PRIOR TO ISSUING A PERMIT FOR THE PARCELS AS PLATTED HEREON ARE SUBJECT TO SECTION 12.1 OF EDO. TERRAIN MANAGEMENT REGULATIONS AT THE TIME OF ANY DEVELOPMENT.

ALL LANDS SHOWN HEREON HAVE SLOPES OF LESS THAN 15 PERCENT AND THERE ARE NO NATURAL DRAINAGE WAS LYING WITHIN SAID LANDS. MAINTENANCE OF ACCESS ROADS AND UTILITY EASEMENTS IS THE RESPONSIBILITY OF THE AND OWNER/USER. THESE PARCELS ARE MAINTAINED BY THE SANTA FE COUNTY PUBLIC WORKS DEPARTMENT OR THE CITY OF SANTA FE.

THESE TRACTS WERE CREATED BY FAMILY TRANSFER

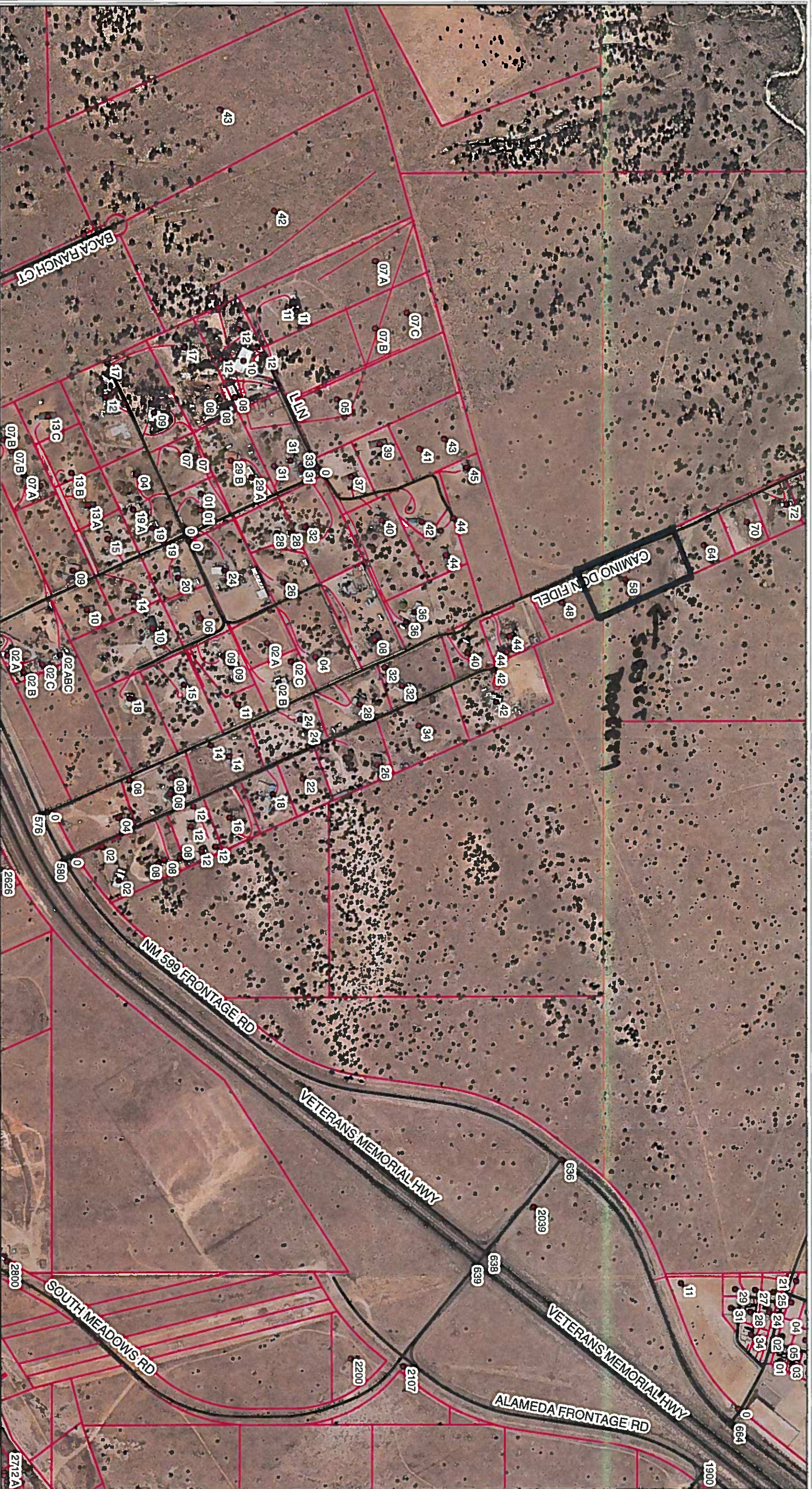
DATE: 4/21/05

INDEXING INFORMATION FOR COUNTY CLERK	
FAMILY TRANSFER SURVEY PREPARED FOR	GILBERT AND ROSE LOPEZ
SECTION 36 T17N, R8E, N.M.P.M.	N/A
TRACTS 1-C1 AND 1-C2	

PARALELITY SURVEYS, INC.
705 ASPEN DRIVE, SUITE 500 & SANTA FE, NM 87505
PHONE 505-833-1240 FAX 505-846-2072

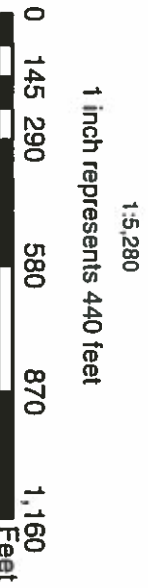
GILBERT J. & ROSE LOPEZ
OF TRACT 1-C, N08-1
WITHIN S.E.C. 36, SEC. 36, T17N, R8E, N.M.P.M.,
SANTA FE COUNTY, NEW MEXICO

DATE: 4/21/05 BY: Paul A. Rodriguez



Legend

- ROADS
- DRIVEWAYS
- ▭ PARCELS



Word Imagery
2 FOOT CONTOURS

This information is for reference only.
Santa Fe County assumes no liability for errors associated with the use of these data.
User are solely responsible for confirming data accuracy.



August 6, 2014

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: August 21, 2014

TO: County Development Review Committee

FROM: John Lovato, Development Review Specialist Sr.

VIA: Penny Ellis-Green, Growth Management Director
Vicki Lucero, Building and Development Services Manager
Wayne Dalton, Building and Development Services Supervisor

John Lovato
Vicki Lucero
Wayne Dalton

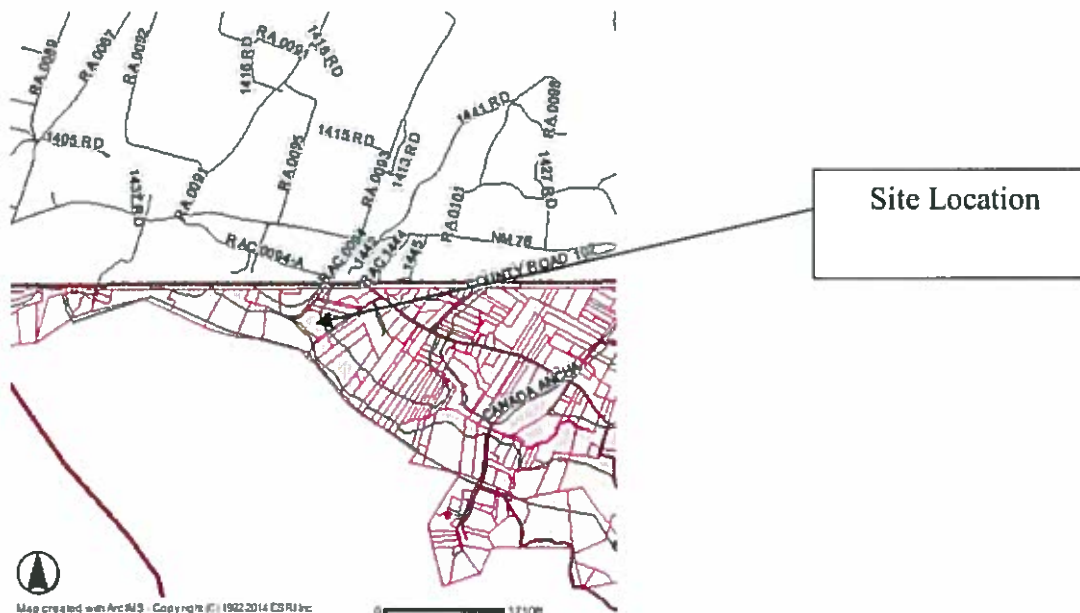
FILE REF: CDRC CASE # V 14-5240 Julie Lopez Variance

ISSUE:

Julie Lopez, Applicant, Michael Sandrin, Agent, request a variance of Article 4, Section 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management) to allow the construction of a driveway within a FEMA Special Flood Hazard Area.

The property is located at 12 Calle Dos Puentes, within the vicinity of Chimayo, within Section 2, Township 20 North, Range 9 East, (Commission District 1).

Vicinity Map:



REQUEST SUMMARY:

The subject lot was created in 1968, and is considered a legal lot of record. The property is currently vacant. The Applicant requests a variance of Article 4, § 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management) to allow the construction of a driveway within a FEMA designated Special Flood Hazard Area.

On June 28, 2014, the Applicant submitted an Application for the construction of a driveway. After review of the Application, staff determined that the proposed driveway was located within a FEMA designated 100 Year Special Flood Hazard Area therefore, the Application was denied. The Applicant intends to develop the lot and place a residence on the property. The Applicant states "denying the driveway presents a hardship due to it being the only access to the property and only buildable area on the lot".

The subject property is accessed off Calle Dos Puentes (Private Road). The portion of Calle Dos Puentes that services the property is approximately 690 feet in length and ranges from 16 to 20 feet in width and is a dirt driving surface located within a FEMA designated Special Flood Hazard Area. Calle Dos Puentes may be frequently impassible during inclement weather and thereby is not all weather accessible. The designated Special Flood Hazard Area runs along the entire frontage of the property, and there is no other location to place a driveway outside of the Special Flood Hazard Area.

Article 4, § 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management) states: "At no time shall a permit be issued for a new dwelling unit, site, lot, parcel or tract of land intended for placement of a habitable structure where the site is absent all weather access".

Article 4, § 4.6 of Ordinance No. 2008-10 states specific variance procedures and criterion that recommending and approval bodies must consider, as follows:

- A. The Board of County Commissioners (Board) after recommendation by the County Development Review Committee (CDRC) shall hear and render judgment on a request for variance from the requirements of this Ordinance.
- B. The CDRC may recommend and the Board take action on an appeal of the Floodplain Administrator's decision only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Ordinance.
- C. Any person or persons aggrieved by the decision of the Board may appeal such decision to a court of competent jurisdiction within thirty days of the Board's decision.
- D. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- E. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory

of Historic Places, without regard to the procedures set forth in the remainder of this Ordinance.

- F. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C (2) of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- G. Upon consideration of the factors noted above and the intent of this Ordinance, the Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Ordinance (Article 1, Section C).
- H. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- I. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

Article 4, § 4.6.J. of Ordinance No. 2008-10 states that the prerequisites for granting a variance are as follows:

- a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
Response: There is no other access to the property and proposed access shall relieve hardship on the Applicant.
- b. Variances shall only be issued upon, (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, the creation of a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
Response: Proposed access will not increase flood heights with proper drainage ponding areas and will be an expense to the public and Applicant to reconstruct Dos Puente's road.
- c. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
Response: There are no proposed structures within the designated FEMA Flood Hazard area. Any future development shall comply with FEMA and Ordinance standards.

- d. Variances may be issued by the BCC for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - i. the criteria outlined in Article 4, Section D (1)-(9) are met, and
 - ii. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Response: All measures will be addressed at time of Building Permit.

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. However, this property is accessed via a private road and there is no feasible way to relocate the road or driveway outside the floodplain.

This Application was submitted on June 30, 2014.

APPROVAL SOUGHT: A variance of Article 4, § 4.2 of Ordinance No. 2008-10 to allow a driveway within a floodplain to access buildable area on a legal lot of record.

VARIANCES: Yes

GROWTH MANAGEMENT AREA: El Norte, SDA-2

HYDROLOGIC ZONE: Traditional Community of Chimayo, minimum lot size per Code is 0.75 acres per dwelling unit.

ACCESS: Calle Dos Puentes which is located within a FEMA designated Special Flood Hazard Area. Access does not comply with minimum Code criteria.

FIRE PROTECTION: Chimayo Fire District.

WATER SUPPLY: Domestic Well

LIQUID WASTE: Conventional Septic System

AGENCY REVIEW:	<u>Agency</u> County Fire	<u>Recommendation</u> Comments not Received
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STAFF RECOMMENDATION: Denial of a request to allow a variance of Article 4, § 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management)

NBC-4

If the decision of the CDRC is to recommend approval of the Applicants request for a variance, staff recommends imposition of the following conditions

1. Water use on the lot shall be restricted to 1.00 acre foot per year per lot. A water meter shall be installed for each lot. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office (**As per Article III, § 10.2.2 and Ordinance No. 2002-13**).
2. The Applicant must obtain a Development Permit from the Building and Development Services Department for the driveway and dwelling unit. (**As per Article II, § 2**).
3. The Applicant shall comply with all Fire Prevention Division requirements at time of Development Permit Application (**As per 1997 Fire Code and 1997 Life Safety Code**).
4. A restriction must be placed on the Warranty Deed regarding the lack of all-weather access to the subject lot. This restriction shall include language as follows: The access to this property does not meet minimum standards set forth by County Ordinances and Code. Site access, including access by emergency vehicles, may not be possible at all time. (**As Per Ordinance 2008-10**).

EXHIBITS:

1. Letter of request
2. Article 4, § 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management)
3. Article 4, § 4.6 (Variance Procedures) of Ordinance No. 2008-10
4. Site Plan
5. Site Photographs
6. Aerial of Site and Surrounding Area

JULIE ANNA LOPEZ
MICHAEL SANDRIN
12 CALLE DE PUENTES
CHIMAYO NM

7/10/14

SANTA FE COUNTY
ZONING DEPT

THIS LETTER IS TO REQUEST A VARIANCE TO BUILD A DRIVEWAY
THAT WILL CROSS AN AREA THAT IS IN THE 100 YEAR FLOOD ZONE .
ALL OF THE DRIVEWAY IS ON THE PROPERTY OWNED BY JULIE ANNA LOPEZ
AND THE ONLY ACCESS TO THE FUTURE HOUSE SITE IS THE DESIGN THAT WE
HAVE SUBMITTED TO SANTA FE COUNTY.
DENYING THIS ACCESS PRESENTS A HARDSHIP TO JULIE ANNA LOPEZ AS IT IS
THE BEST WAY FOR HER TO REACH THE BEST HOUSE SITE ON HER
PROPERTY.

RESPECTFULLY SUBMITTED,

R MICHAEL SANDRIN

DESIGNER/BUILDER FOR JULIE ANNA LOPEZ

 7/10/14



NBC-6

ARTICLE 4

FLOODPLAIN DEVELOPMENT PERMIT PROCEDURAL REQUIREMENTS

SECTION 4.1 AREAS REQUIRING A FLOODPLAIN DEVELOPMENT PERMIT

A. For development within a designated SFHA, including lands which are traversed by, bisected by, or directly adjacent to the SFHA designated on the effective FIRM as described in Article 2, §2.2C, Article 3, §3.2 and Article 3, §3.10, a Floodplain Development Permit issued by the Floodplain Administrator in conformity with the provisions of the Ordinance shall be secured pursuant to Article 3, §3.3(B) prior to commencement of construction.



SECTION 4.2 NON-ELIGIBLE NEW DEVELOPMENT OR CONSTRUCTION

At no time shall a Floodplain Development Permit be issued for a new dwelling unit site, lot, parcel or tract of land intended for placement of a habitable structure including single family homes, residential subdivisions, modular home sites and modular home subdivisions where the site is:

- i. An alternative buildable area located outside the limits of the SFHA is available;
- ii. Unable to be removed from the SFHA through the formal FEMA map revision process described in Article 4, § 4.4;
- iii. Absent all weather access.



SECTION 4.3 PROCEDURES FOR SUBDIVISION PROPOSALS

All subdivision proposals which include area traversed by, bisected by, or directly adjacent to SFHA, including manufactured home parks and manufactured home subdivisions shall be required to secure a Floodplain Development Permit per Article 4, §4.4, and:

- A. SFHA may be used in computation of density;
- B. SFHA may be utilized to meet open space criteria;
- C. Primary and secondary subdivision access as required by County Code must be all weather access;
- D. For phased subdivisions, an overall Master Drainage Analysis shall be provided which demonstrates that floodplain management policies and stormwater management criteria will be compliant with this Ordinance and function independently in each phase, or construction of the entire conveyance system will be required in the first phase of construction.



- iii. The location of the structure or structures located on the property in question.
 - iv. The elevation of the lowest adjacent grade to a structure or structures.
 - v. An indication of the curvilinear line which represents the area subject to inundation by a base flood. The curvilinear line should be based upon information provided by an appropriate authoritative source, such as a Federal Agency, a County or City Engineer, a Federal Emergency Management Agency Flood Insurance Study, or a determination by a Registered Professional Engineer.
- c. A copy of the FIRM indicating the location of the property in question.
 - d. A certification by a Registered Professional Engineer or Licensed Land Surveyor that the lowest grade adjacent to the structure is equal to or greater than the base flood elevation.
 - e. The completion of the appropriate forms in the Federal Emergency Management Agency's Packets, Amendments and Revisions To National Flood Insurance Program Maps (MT-1 FEMA FORM 81-87 Series and MT-2 FEMA FORM 81-89 Series or latest revision).
- D. The NFIP does not allow for the removal of land from the floodplain based on the placement of fill (LOMR-F) in alluvial fan flood hazard areas. The NFIP will credit a major structural flood control project, through the LOMR process, that will effectively eliminate alluvial fan flood hazards from the protected area. Details about map revisions for alluvial fan areas can be found in the 44 CFR, § 65.13.



SECTION 4.6 VARIANCE PROCEDURES

- A. The BCC after recommendation by the County Development Review Committee (CDRC), shall hear and render judgment on a request for variance from the requirements of this Ordinance.
- B. The CDRC may recommend and the BCC take action on an appeal of the Floodplain Administrator's decision only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Ordinance.
- C. Any person or persons aggrieved by the decision of the BCC may appeal such decision to a court of competent jurisdiction within thirty days of the BCC decision.
- D. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.



- E. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Ordinance.
- F. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C(2) of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- G. Upon consideration of the factors noted above and the intent of this Ordinance, the BCC may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Ordinance (Article 1, Section C).
- H. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- I. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- J. Prerequisites for granting variances:
 - a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - b. Variances shall only be issued upon, (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, the creation of a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - c. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
 - d. Variances may be issued by the BCC for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - i. the criteria outlined in Article 4, Section D (1)-(9) are met, and

- ii. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

ARTICLE 5

Stormwater Management Analysis and Design Criteria

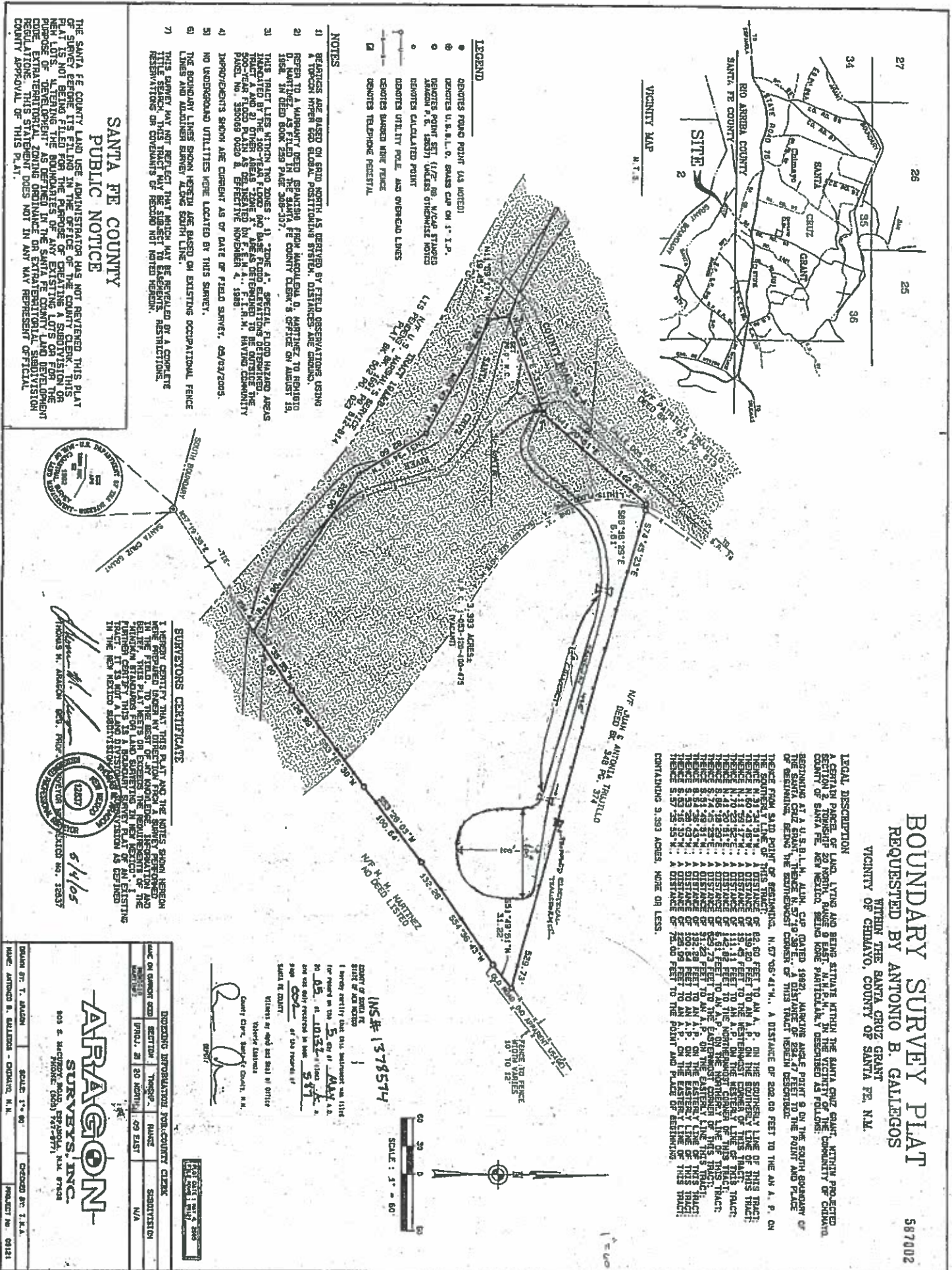
SECTION 5.1 DETERMINATION OF SUBMITTAL REQUIREMENTS

- A. The land disturbance process and complexity of the site and surrounding area will determine submittal requirements for a Stormwater Management Analysis for land disturbance activity or activities. The minimum information required is tabulated in Article 6, Table I.
- B. The submittal and review process does not relieve the design engineer of the responsibility to provide a correct and safe drainage design nor relieve the developer from properly constructing the designed drainage facilities.
- C. By reviewing and approving drainage designs for given developments neither Santa Fe County nor its employees will assume liability for improper drainage design nor guarantee that the final drainage design review will absolve the developer or designer of future liability for improper design.

SECTION 5.2 GENERAL FORMAT OF NARRATIVE

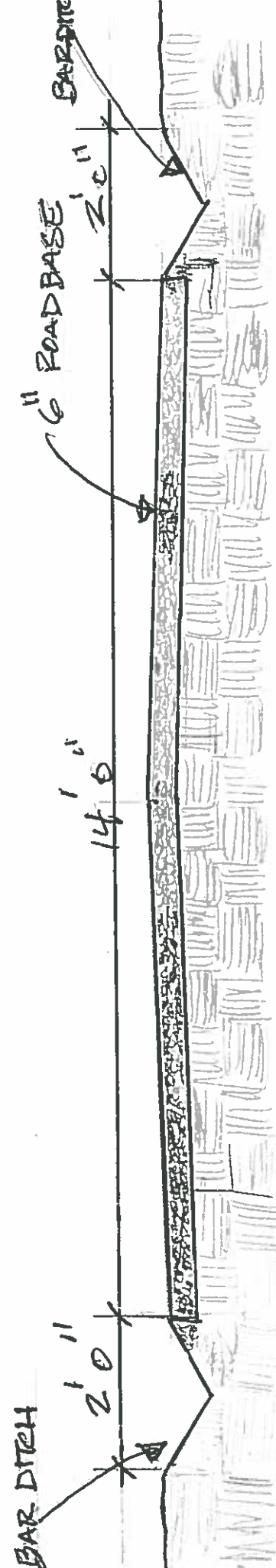
- A. A Stormwater Management Analysis will be required for all land disturbance activity, regardless of the nature of the activity. This analysis is required to assess potential hazard to the development from the effects of onsite and offsite stormwater runoff, and to assess the potential impact of the development on adjacent properties and on the regulatory floodplain, and must be prepared pursuant to Article 5, §5.2 and must be sealed by a professional engineer licensed in the State of New Mexico.
- B. The Stormwater Management Analysis shall be submitted with the following information included therein:
 - a. Comprehensive narrative describing:
 - i. the nature of the disturbance,
 - ii. impacts on adjacent parcels,
 - iii. impacts on the SFHA,
 - iv. offsite contributing hydrologic basin areas,

NBC-10



JULIANNA LOPEZ
12 CAÑO DE LOS PUERTOS
CHIMAYO, NM

MICHAEL SANDRIN CONST.
505 670 1404
NM LIC# 08524



SECTION @ DRIVEWAY 1/2" = 10'

NBC-12



EXHIBIT
5.

NBL-13

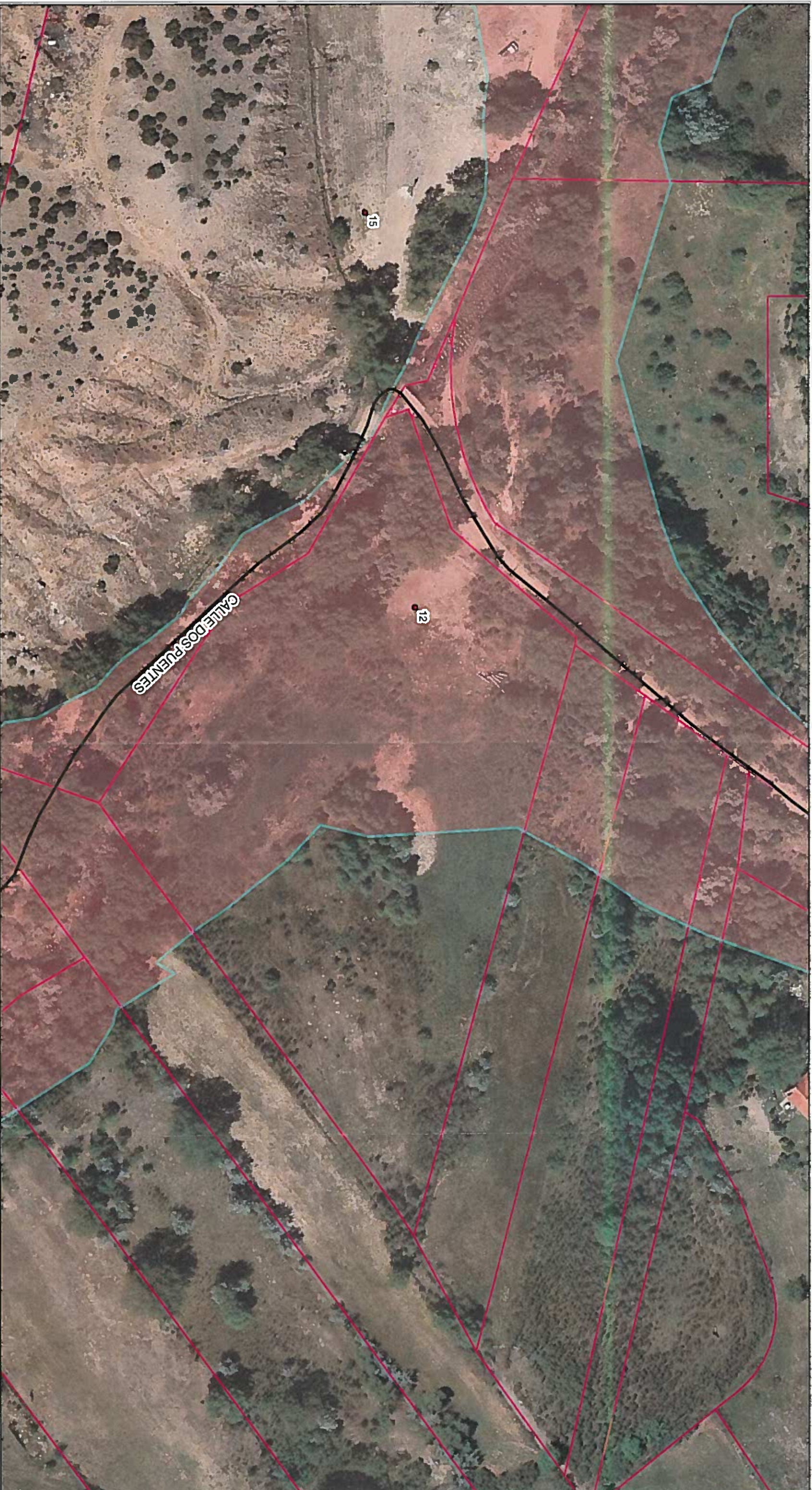


NBC-14



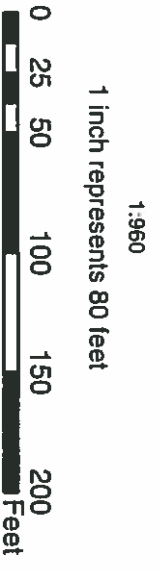


NBL-16



Legend

- ROADS
- 0.2 % Annual Chance Flood Hazard
- 2011 Zone A (No BEEs Determined)
- 2011 Zone AE
- 2011 Floodways
- 2011 Zone AO
- 2011 Zone D
- PARCELS



Word Imagery
2 FOOT CONTOURS

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confirming data accuracy.



August 4, 2014

NBC-17

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: August 21, 2014

TO: County Development Review Committee

FROM: John Lovato, Development Review Specialist Senior

VIA: Penny Ellis-Green, Growth Management Director *PEG*
Vicki Lucero, Building and Development Services Manager *VL*
Wayne Dalton, Building and Development Services Supervisor *WD*

FILE REF.: CDRC CASE # V 14-5260 Mastrantoni/Garrison Variance

ISSUE:

Vincent Mastrantoni, and Webb Garrison, Applicants, request a variance of Article III, § 10 (Lot Size Requirements) of the Land Development Code to allow four dwelling units on 5 acres.

The property is located at 28 Vista De Luna, within the vicinity of Nine Mile Road, within Section 25, Township 16 North, Range 10 East, (Commission District 4).

SUMMARY:

This case is **tabled** to allow the Applicant more time to provide additional information.

Daniel "Danny" Mayfield

Commissioner, District 1

Miguel Chavez

Commissioner, District 2

Robert A. Anaya

Commissioner, District 3



Kathy Holian

Commissioner, District 4

Liz Stefanics

Commissioner, District 5

Katherine Miller

County Manager

DATE: August 21, 2014

TO: County Development Review Committee

FROM: Vicente Archuleta, Development Review Team Leader *ws for*

VIA: Penny Ellis-Green, Growth Management Director *VA for*
Vicki Lucero, Building and Development Services Manager *VA*
Wayne Dalton, Building and Development Services Supervisor *ws*

FILE REF.: CDRC CASE #S 12-5452 Cielo Colorado Estates Final Plat and Development Plan

ISSUE:

Cielo Colorado LLC., Applicant, James W. Siebert, Agent, request Final Plat and Development Plan approval for Phase 1 and 2 (Lots 7-17) consisting of 11 lots of the Cielo Colorado Estates 24-lot residential subdivision on Tract 15A-2 of the Eldorado at Santa Fe Subdivision consisting of 246.30 acres.

The property is located on the east side of US 285, off Camino Acote, within Sections 20, 21 and 22, Township 15 North, Range 10 East (Commission District 4).

SUMMARY:

The Applicant has requested this case be tabled to address certain affordable housing issues.

NBE-1

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: August 21, 2014

TO: County Development Review Committee

FROM: Jose E. Larrañaga, Development Review Team Leader *gef*

VIA: Penny Ellis-Green, Growth Management Director *VZ for*
Vicki Lucero, Building and Development Services Manager *VL*
Wayne Dalton, Building and Development Services Supervisor *WD*

FILE REF.: CDRC CASE # V/Z 14-5210 Senior Campus @ Caja del Rio

ISSUE:

Caja del Rio Holdings, LLC, Applicant, Jenkins/Gavin, Agents, request Master Plan Zoning approval to allow the creation of a Large Scale Mixed Use District, to be utilized as a Senior Care Facility, to be developed in four phases on 28 ± acres. The request also includes a variance of Article III, Section 6.4.2 (Density Review) and Article III, Section 10 (Lot Size Requirements) of the Land Development Code. The property is located at 28 Caja del Rio Road, within Section 2, Township 16 North, Range 8 East, (Commission District 2).

VICINITY MAP:



NBF-1

SUMMARY:

The Applicant requests Master Plan Zoning approval to allow a Large Scale Mixed Use Development to be utilized as a Senior Care Facility on 28 ± acres. The proposed Senior Campus @ Caja del Rio will provide a full spectrum of senior care and living options, including a skilled nursing facility, assisted living, a memory care facility and independent living (senior housing).

The proposed Senior Care Facility will be developed in four phases over a period of 8-10 years: Phase 1 will consist of a 58,000 square foot skilled nursing facility (Lot 1) and a waste water treatment system, leach field and centralized drainage pond (Lot 5); Phase 2 will consist of a 150,000 square foot assisted living facility (Lot 2); Phase 3 will consist of a 180,000 square foot retirement housing/independent living complex (Lot 3); Phase 4 will consist of a 35,000 square foot memory care facility.

The Applicant is requesting the following permitted uses as a Large Scale Mixed Use designation: retirement housing; assisted living facility; life care or continuing care facilities; skilled nursing facility; hospitals; medical clinics; social assistance, welfare and charitable services; services for elderly and disabled; offices; research and development services.

Article III, § 4.2.1.d.1 (Large Scale Mixed Use Development) states: “proposed developments which are planned for a mix of residential, large scale residential, and/or non-residential uses and large scale developments or subdivisions which may be developed in phases shall present a Master Plan for development to the County pursuant to Article V, Sections 5.1 and 5.2 of the Code”.

Article V, § 5.2.1.b states: “a Master Plan is comprehensive in establishing the scope of a project, yet is less detailed than a Development Plan. It provides a means for the County Development Review Committee and the Board to review projects and the sub-divider to obtain concept approval for proposed development without the necessity of expending large sums of money for the submittals required for a Preliminary and Final Plat approval”.

The Applicant also requests a variance of Article III, § 6.4.2 (Density Review) and Article III, § 10 (Lot Size Requirements), of the Land Development Code, to allow a maximum residential density of 20 dwelling units per acre. The proposed site is within the Basin Hydrologic Zone where the minimum lot size is one dwelling unit per 2.5 acres.

The Applicant states the following reasons to allow the variance: 20 dwellings per acre is in accordance with the multi-family density permitted in the Sustainable Land Development Code (SLDC); the density is permitted under the current County Land Development Code pursuant to Article III, § 11 which states: “*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*”; the multi-family uses permitted by the Large Scale Residential provisions cannot be developed at the single family density of one dwelling per 2.5 acres.

NBF-2

Staff Response: the Land Development Code does not provide regulations to fully implement the density permitted in the SLDC; the requested density exceeds the requirements of the Land Development Code; Article III, § 11 of the Land Development Code was reviewed by County Staff and it was determined that this section is not applicable in regards to the density proposed for this development due to the fact that this development will be utilizing County Water; the Application is subject to compliance with Article III, § 10, of the Land Development Code in regards to density.

Article III, § 6.4.2 (Density Review) states: “the Code Administrator shall review an Application for development permit for development provided for in this Section 6 (Large Scale Residential Uses) in compliance with the density requirements of the Code. No Application shall be approved unless it is determined that the density requirements of the Code will be met”.

Article III, § 10.1.2 (Water Policies Governing Lot Sizes Where Developments Will Not Utilize Permitted Water Rights - BASIN ZONE) states: “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”. Ordinance No. 1997-3 amended Article III, § 10.1.2 to state: ‘the minimum lot size shall not be less than 2.5 acres regardless of calculated water availability”.

Article II, § 3 (Variances) 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 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”.

This Application was submitted on June 19, 2014.

Building and Development Services staff has reviewed the Applicants request for a variance of Article III, § 6.4.2 (Density Review) and Article III, § 10 (Lot Size Requirements), of the Land Development Code, to allow a maximum residential density of 20 dwelling units per acre, for compliance with pertinent Code requirements and has found that the following facts presented do not support the request: the requested density exceeds the requirements of the Land Development Code; no Application shall be approved unless it is determined that the density requirements of the Code will be met; minimum lot size shall be calculated based upon ground water storage only and the minimum lot size shall

not be less than 2.5 acres; a variation or modification of this section of the Code may be considered more than a minimum easing of the requirements.

Building and Development Services staff has reviewed this project for compliance with pertinent Code requirements and has found the following facts presented support the request for Master Plan Zoning to allow a Large Scale Mixed Use Development: the Application is comprehensive in establishing the scope of the project; the proposed uses are in compliance with the uses associated with a Large Scale Mixed Use District; the Application satisfies the submittal requirements set forth in the Land Development Code, with the exception of the density element of the request.

The review comments from State Agencies and County staff have established that this Application, for Master Plan Zoning to allow a Large Scale Mixed Use Development, is in compliance with: State requirements; Article III, § 4.2.1.d.1 Large Scale Mixed Use Development; Article V, § 5 Master Plan Procedures. This Application is not in compliance with Article III, § 6.4.2 Density Review and Article III, § 10 Lot Size Requirements.

APPROVAL SOUGHT: Master Plan Zoning approval to allow a Large Scale Mixed Use Development, to be utilized as a Senior Care Facility, to be developed in five phases on 28 ± acres.

VARIANCE: Variance of Article III, § 6.4.2 (Density Review) and Article III, § 10 (Lot Size Requirements) of the Land Development Code

GROWTH MANAGEMENT AREA: SDA 1, Public/Institutional

HYDROLOGIC ZONE: Basin Hydrologic Zone, minimum lot size per code is 2.5 acres.

ARCHAEOLOGIC ZONE: Low Potential, less than 40 acres, an archaeological survey is not required. A review of this submittal, by NMSHPD, determined that no survey was required. Nonetheless NMSHPD **recommended** a survey be conducted to ensure that no significant archaeological sites are present before construction begins.

ACCESS AND TRAFFIC: The development will access directly off Caja del Rio Road. A Traffic Impact Analysis (TIA) was submitted and reviewed by the County Public Works Department and NMDOT. Public Works determined that this project can be supported subject to the following conditions: submittal of an intersection analysis and intersection turning movement volumes for the driveway/Caja del Rio intersection for future phases to determine if a southbound left turn lane is

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required; construct a northbound right turn deceleration lane at the proposed driveway along Caja del Rio Road 370 feet long with 12.5:1 taper with the Phase I development; construct and maintain adequate sight distances at the proposed driveway; provide a detailed drainage plan for the proposed culvert located within SF County R-O-W/entry of driveway at Preliminary Development Plan. NMDOT stated that the development will have minor impact to the NMDOT roadway system and no further traffic analysis is required.

FIRE PROTECTION:

Agua Fria Fire District. The Santa Fe County Fire Prevention Division reviewed this Application and recommends approval of the Master Plan subject to the following conditions: roads shall meet the minimum County standards for fire apparatus access roads within this type of proposed development; shall comply with Article 9, § 903-Water Supplies and Fire Hydrants of the 1997 Uniform Fire Code; Automatic Fire Protection Sprinkler systems shall be required as per 1997 Uniform Fire Code, Article 10, § 1003.2.

WATER SUPPLY:

This development will be served by the County Water System. The developer will be responsible for constructing the water lines to serve the development. Five hydrants are proposed along the access drive of the development. **The Santa Fe County Utilities Division (SFCU) has reviewed this submittal and is ready, willing and able to provide water service for this development subject to the following conditions: the BCC approves new water deliveries for this development, as required by Resolution 2006-57 (Adopting A Santa Fe County Water Resource Department Line Extension and Water Service Policy); the developer shall provide SFCU with data and calculations upon which the water budget was established. The developments water budget shall be premised on the Santa Fe County Conservation Ordinance 2002-13, which enumerates required water conservation measures. SFCU may adjust the developments water budget as appropriate; Approval by the BCC of the projects water budget of 69.7 acre-feet/year, which is in the excess of the maximum of 35 acre-feet/year identified in Resolution 2006-57, § IX.C. the development shall justify the “extraordinary circumstances” that merit an exception to the water allocation limit; the developer shall compensate SFCU**

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for the quantity of water rights and supply assigned to the development per Resolution 2006-57, Article X and IV.A.3 of attached A, currently valued at \$11,000 per acre-feet; the development shall meet all other conditions of Resolution 2006-7, Resolution 2012-88, and all other SFCU water related ordinances and resolutions; The development is responsible for the design and construction of this project in its entirety and pays for all costs associated with the water system. Santa Fe County is not responsible for any costs incurred in order to ensure compliance with the Counties ordinances or other applicable rules and regulations; the development agrees to construct and dedicate all infrastructure needs identified by the SFCU; the development obtains a letter from the City of Santa Fe Water Division (City) that identifies what, if any, additional water utility infrastructure is needed in order to supply the proposed 69.7 acre-feet/year demand; the development agrees to construct and dedicate all infrastructure needs identified by the City's water utility hydraulic modeling (Exhibit 3).

LIQUID WASTE:

An on-site wastewater treatment system and leach field will be constructed on Lot 5 to serve Phase I of the project. If municipal sewer connection becomes available prior to the development of future Phases, the on-site system will be removed. In the event that municipal sewer connection is not feasible, the treatment facility would be expanded to accommodate the additional Phases of the development. NMED reviewed this request and states: Phase I will require a permit to construct the wastewater treatment system; the sizing, treatment type and subsequent proposed re-use of the wastewater will require an NMED application, staff review and staff approval prior to construction. **In the event that municipal sewer connection becomes available for this development the developer is responsible for the design and construction in its entirety and pays for all costs associated with the connection.**

SOLID WASTE:

Solid waste will be collected in dumpsters located on each individual lot and hauled to an approved land fill by a licensed disposal service. Dumpsters will be screened by a wall or opaque fence and gated.

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