

DRAFT

subject to approval

MINUTES OF THE
SANTA FE COUNTY
DEVELOPMENT REVIEW COMMITTEE

Santa Fe, New Mexico

September 19, 2013

This meeting of the Santa Fe County Development Review Committee (CDRC) was called to order by J.J. Gonzales, on the above-cited date at approximately 4:08 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:

Juan José Gonzales, Chair
Phil Anaya
Maria DeAnda
Dan Drobnis
Frank Katz
Manuel Roybal

Member(s) Excused:

Susan Martin

Staff Present:

Wayne Dalton, Planning Division Director
Vicki Lucero, Planning & Development Services Manager
Jose Larrañaga, Development Review Specialist
Tim Vigil, Assistant County Attorney
Vicente Archuleta, Development Review Specialist
Buster Patty, Fire Marshal
Karen Torres, County Hydrologist

IV. APPROVAL OF AGENDA

Upon motion by Member Katz and second by Member DeAnda the agenda was approved [6-0] as published.

V. APPROVAL OF MINUTES: August 15, 2013

Member Katz moved to approve the August minutes as submitted. Chair Gonzales seconded and the motion passed by unanimous[6-0]voice vote.

VI. CONSENT CALENDAR: Final Order

- A. CDRC CASE # Z/S 12-5450 Cielo Colorado Subdivision. Cielo Colorado, LLC. Applicant, Jim Siebert, Agent, Requested a Recommendation for Approval of Master Plan Zoning for a 24-Lot Residential Subdivision on 246.30 Acres + within Tract 15A-2 of the Eldorado at Santa Fe Subdivision. The Applicant also Requested CDRC Approval to Allow Two Cul-de-Sacs (Dead End Roads) to Exceed 500 Feet in Length. The Property is Located on the East Side of US 285, Off Camino Acote, within Sections 21 & 22, Township 15 North, Range 10 East (Commission District 4) Jose E. Larrañaga, Case Manager (Approved 7-0)**

Member Katz moved approval and Member Anaya seconded. The motion carried unanimously [6-0].

VII. NEW BUSINESS

- A. CDRC CASE # MIS 13-5200 Oshara Village Master Plan Amendment. Homewise, Inc. and Century Bank, Applicants, Design Enginuity, Agent, Request a Master Plan Amendment to Re-zone 26 Live/Work Lots Into 26 Residential Townhome Lots (Lots 76-85 and 92-107), to Rezone 10 Live/Work Lots to 7 Residential Patio Lots (145-154) and to Re-zone 17 Commercial Lots to 9 Residential Patio Lots (Lots 7-15 and 20-27). The Applicants Also Request to Create 5 Residential Patio Home Lots on Tract C which was Designated Reserved, Open Space. The Property is Located in Oshara Village, East of Richards Avenue, within the Community College District, within Section 16, Township 16 North, Range 9 East (Commission District 5)**

Vicente Archuleta, Case Manager, gave the staff report as follows:

“On April 30, 2002, the Extraterritorial Zoning Authority granted Master Plan approval for a mixed-use development formerly known as Oshara Ranch. The development consisted of 735 residential units and 1.7 million square feet of commercial space and 246 acres of open space/park/plaza areas on 471 acres, to be developed in eight phases

“On October 28, 2004, the EZA granted a Master Plan Amendment to the previously approved Oshara Ranch in order to change the phasing of the project. On January 11, 2005, the Board of County Commissioners granted Preliminary Development Plan and Plat approval for Phase I of the Oshara development.

“On June 14, 2005, the BCC granted Final Plat and Development Plan approval for Phase I of the Oshara Village development which consisted of 175 residential lots and 136,000 square feet of commercial space on 74 lots on a total of 37.78 acres in accordance with the previously approved Master Plan.

“Since the time of approval, the necessary infrastructure, including roads and utility lines have been installed and more than 59 homes are occupied within Oshara Village.

“In 2008, the nationwide economic downturn greatly impacted the project’s execution and the developers could not meet their obligations. The project mortgages were set up so that if the developer failed, the banks would take over ownership of the remaining lots.

“The Applicants now request to modify the zoning on Lots 76-85 and 92-107 from 26 live/work lots to 26 residential townhome lots, Lots 145-154 from 10 live/work lots to seven residential patio home lots and Lots 7-15 and 20-27 from 17 commercial lots to nine residential patio home lots. The request also includes approval to create five residential patio home lots on Tract C which was designated as reserved, open space on the original recorded plat.

“The primary reason for the request is to address changing market conditions, as they see little market for live-work units or small commercial lots in Oshara Village. Currently there are 42 live-work lots within Phase I, and under the proposal, 36 of those lots would be developed as 26 residential townhome lots and seven residential patio home lots. The other six would remain live-work lots. There currently are 23 commercial lots, The Applicants state that 17 of the commercial lots which are located at the far eastern side of the Oshara development site are not suitable for commercial projects as they are not visible from the main traffic thoroughfares and are small lots ranging in size from 2,345 to 4,250 square feet. However, patio homebuyers have shown interest in them, given their location adjacent to Oshara’s open space. Therefore, the Applicants are proposing to rezone those 17 commercial lots to nine residential patio home lots.

“In addition, the Applicants request approval to create five patio home lots on Tract C which was designated as reserved open space. The tracts will front Willow Back Road which is complete with all necessary utilities in the roadway. The lots will have a minimum setback of 350 feet from Richard’s Avenue. The project will still provide the required 50 percent open space.

“If the requested Master Plan Amendment is granted, the development of the 26 townhomes will proceed promptly, as no lot line or infrastructure modifications would be necessary. The lots for the patio homes are larger than the existing live-work and commercial lots requiring modifications to lot lines and utilities that

would require the Applicant to return to the County with a development plan and lot line adjustment plat for this portion of the project as well as a request for Preliminary and Final Plat and Development Plan approval for the 5 lots being created on Tract C. Overall the net result of the proposed changes would be a 6-lot decrease in density with respect to the original plan.”

Mr. Archuleta stated staff was recommending approval of a Master Plan Amendment to rezone 26 live/work lots to 26 residential townhome lots, rezone 10 live/work lots to 7 residential patio home lots, rezone 17 commercial lots to nine residential patio home lots and create five residential patio home lots on Tract C which was designated reserved, open space. Subject to the following conditions:

1. The Applicant shall comply with all conditions of the original Master Plan.
2. Amend the Affordable Housing Agreement to identify an additional unit.

Chair Gonzales asked for the definition of a master plan amendment and when the last master plan was approved. Mr. Archuleta stated they were requesting to change their live-work and commercial units to residential units. There has been no need to extend this master plan since its original approval in 2004. Chair Gonzales asked about the status of the other phases. Mr. Archuleta said the applicants are still working on Phase I and there are other owners of different parts of the property. The requested changes apply only to this phase. Ms. Lucero pointed out only this phase has preliminary and final plat approval; all others are pending. The original master plan is still valid.

Referring to a letter from Design Enginuity, Member DeAnda asked if they were requesting that the wastewater system be absorbed by the County. Mr. Archuleta said that has nothing to do with this application and will have to go through the Utilities Department. Ms. Lucero added BCC action may be required, but she doubted it would come before the CDRC.

Member Drobnis asked for an explanation of the Department of Transportation’s negative recommendation due to concerns about lack of a recent traffic analysis. Mr. Archuleta stated the negative opinion came from the fact the north-south connector is not complete. Richards Avenue lacks the capacity for all the traffic. Ms. Lucero indicated opinions from state agencies are recommendations only. County Public Works has okayed the project. A trip generation report determined the traffic would be less since they are increasing the amount of residential over commercial, and there are fewer lots.

Duly sworn, Oralynn Guerrerortiz from Design Enginuity stated she was representing Homewise and Century Bank. She said the original development failed and went bankrupt, thus Oshara was divided up among various entities. There are currently six homes under construction; 14 total are planned in the near future. Due to the unusual initial master plan there are some products that no one wants including very narrow commercial lots and affordable live-work units. However, there is a market for patio homes, townhomes and single-family homes. Changing uses would make for a more vibrant community, said Ms. Guerrerortiz.

She indicated the changes applied only to lots owned by Homewise and Century Bank, which she demonstrated on maps. She pointed out the “reserved” open space that was set aside for some use in the future. Conversion of this will not bring the overall ratio to under 50 percent as required by the Community College District Ordinance. Due to modifications of the estate lots more open space was gained from the arroyo. She noted that their decisions on lots were made with an eye to not increasing traffic. She said all the infrastructure is in, and they agree to all conditions.

Chair Gonzales asked for amplification of the plans for the wastewater treatment plant. Ms. Guerrerortiz said the County’s Sustainable Growth Plan calls interceptors and wastewater treatment plans in SD-1 areas, which includes the Community College District. The Oshara plant has a capacity of 45,000 gallons per day and is only using 5,000 gallons. Nearby developments could hook up to a centralized plant. The concept is this plant would be an asset to the community and would pay for itself; it produces effluent that can be used for landscaping.

Noting the letter said there would be no cost to the public, Member DeAnda asked if it would be covered by the homeowners association fees? Ms. Guerrerortiz said it would be covered by the user fees. It originally cost around \$1.2 million and could be donated to the County.

Chair Gonzales asked for a definition of reserved open space and if the homeowners association owns it. Ms. Guerrerortiz said the homeowners association owns all the dedicated open space – the plaza and parks. Century Bank owns other lots which had originally been held in reserve for a museum or other potential use. She said the other phases have dedicated trails. The current homeowners do have to maintain the dedicated open space.

Chair Gonzales asked about the affordable housing requirements. Ms. Guerrerortiz said there were 25 affordable homes required in Phase 1 and all but eight have been built and are occupied. She demonstrated where they would be located.

Member Anaya asked if recent flooding had damaged the arroyo. Ms. Guerrerortiz said to her knowledge no damage occurred and there were no problems with culverts. Mr. Archuleta said he visited the site the day before and there was no damage. Ms. Guerrerortiz said in addition to the 100-year floodplain there is a 50-foot setback to protect the lots.

Responding to questions by Member Anaya, Ms. Guerrerortiz said the homeowners association currently owns and maintains the plaza, parks and some strips of open space. She speculated that after its lots are sold the bank’s open space will be dedicated to the HOA.

Member Katz said he was confused about the open space issue. Ms. Guerrerortiz said the Community College District Ordinance requires a minimum of 50 percent open

space. She said the open space lost to planned development in the large parcel was made up for by the increased areas by the arroyo.

Bob Bidol from Century Bank, under oath, stated the bank is trying to recover their investment after the bankruptcy. It was determined commercial lots are not viable in the area while affordable housing is needed. This plan will also reduce traffic and is a win-win for all.

Duly sworn, Mike Loftin from Homewise indicated they have acquired 40 lots. He explained that the mission of Homewise was to increase their financial security through homeownership and good mortgages. They believe Oshara is a good place for people to buy their first homes. He spoke of Homewise's objectives which include eradicating mortgage insurance, having savings and buying a home as a long-term asset. They build to green standards which lowers utility bills by up to 40 percent.

Member Anaya asked about the price range and Mr. Loftin replied the cross-subsidized homes could be around \$110,000 and the market rate \$180,000 to \$220,000.

Glenn Smerage, resident of Rancho Viejo, was placed under oath and said he looked favorably on the project. He noted it was unusual to downgrading land from commercial to residential. He urged the County to complete the work on the north-south connector. He asked if there was any "funny" open space, meaning undisclosed construction setbacks on private lots, which constituted a taking. Ms. Guerrerortiz said that is called private open space and the estate lots in Oshara do have private open space along the arroyo. They list the lots' total acreage and its developable acreage.

The president of the Oshara HOA, Beth Dettweiler, duly sworn, read a letter from the homeowners association which is comprised of both commercial and residential components. *[Exhibit 1]* She said the requested changes are in the best interests of Oshara, present and future. The northeast and southeast connector roads are critical to increased desirability of Oshara lots, along with solving the question of ownership of the wastewater treatment plan.

George Brown, under oath, stated he was an Oshara resident and was in favor of the proposals. He said there had been no problems with drainage and traffic concerns aren't really relevant.

Under oath, Robert Larragoite with Westgate Properties, said he managed the homeowners association. He mentioned that converting commercial to residential will decrease the collected dues to the homeowners association and these dues are responsible for taking care of the common areas and management. The loss amounts to \$13,982.16 annually, which is an undue hardship on the existing homeowners. He has had a verbal commitment from Homewise and Century Bank to make up that loss for two years and he asked that written commitments be made conditions of approval at the BCC meeting. He

said the activity of the new owners was exciting. He explained that currently, whoever owns the lot pays the dues whether the lot is developed or not.

Member Drobnis asked if the homeowners association owns the wastewater plant. Mr. Larragoite said it is owned by a private corporation that was set up by the developer and regulated by the PRC as a public utility. The homeowners association is funding the shortfall and making decisions on it. Member Drobnis asked if there was a shrinking fund. Mr. Larragoite said the homeowners association and the corporation are two completely different entities and the homeowners association has no obligation to fund the plant. There is no one reserving for eventual replacement; the situation is in limbo. The PRC will not allow the homeowners association to take over the plant without going through an onerous process. They have considered forming a water and sanitation district or a co-op, but both require PRC approval. Member Drobnis said it is a public health issue and he could put Mr. Larragoite in touch with people who could help.

In response to questions from Member DeAnda Mr. Larragoite said it is not Westgate's intent to manage the operations. Ms. Guerrerortiz stated Century Bank and Homewise feel it would be in the best interests of all if water and sewer were in the hands of the County. This would ensure that it was professionally done and safe. The Oshara HOA is looking for more flexibility than the PRC can give them and are considering various options. Previous County Utility Director, Doug Sayre, expressed to her that it could be done given sufficient data.

Ms. Dettweiler said they are looking at different resolutions because the current situation is not sustainable. The easiest solution would be if the County took over the plant, but they are continuing to look at other options. Ms. Guerrerortiz understood with 30 more connections the County would be in the black, so with the increased pace of development it could happen soon. She reiterated excess capacity could be sold. Ms. Dettweiler said the request to the County has been prepared and they are waiting to hear about the amendment changes.

Mr. Larragoite showed the location of the treatment plant for the benefit of Member Anaya. Ms. Guerrerortiz said there are no existing County sewer lines in the area but there are waterlines nearby.

Mr. Smerage said he understood the County take over would be a condition of approval. Chair Gonzales said it is not a condition on the application.

Chair Gonzales asked about the dues. Mr. Larragoite said dues are collected quarterly and depend on lot type and usage. Commercial is generally three times the residential. The dues go to roads, open space, signage, parks, etc.

Stating the change from commercial to residential made a lot of sense and additional affordable housing was provided, Member DeAnda moved to approve CDRC Case #MIS 13-5200 with staff conditions. Member Katz seconded and proposed a

friendly amendment that the homeowners association be held harmless for two years vis-à-vis the dues.

CDRC Counsel Tim Vigil said he didn't believe the County had the authority to mandate that, however, a recommendation could be made. Ms. Guerrerortiz said the parties were agreeable to the hold-harmless proviso if this could be effective for two years after recordation.

Given the applicant's voluntary acceptance of a condition, Member DeAnda accepted the friendly amendment.

The motion carried by unanimous [6-0] voice vote.

VIII. Petitions from the Floor - None were presented.

IX. Communications From the Committee - None were presented.

X. Communications From the Attorney - Mr. Vigil introduced himself.

XI. Matters From the Land Use Staff - None were offered.

XII. Next CDRC Regular Meeting: October 17, 2013

XIII. ADJOURNMENT

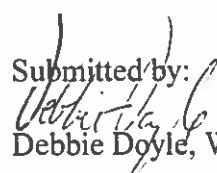
Having completed the agenda and with no further business to come before this Committee, Chair Gonzales declared this meeting adjourned at approximately 5:35 p.m.

Approved by:

J.J. Gonzales, Chair
CDRC

ATTEST TO:

COUNTY CLERK

Submitted by:

Debbie Doyle, Wordswork

September 18, 2013

Santa Fe County Board of Commissioners and CDRC

Santa Fe, New Mexico

RE: CDRC CASE # MIS 13-5200

Board of County Commissioners and County Development Review Committee:

Oshara Village was originally planned as a sustainable, walk-able community with a strong commercial presence and 50% open space. With these goals in mind, ^{we}ask that the County Development Review Committee and the Commissioners consider the following comments concerning the Master Plan Amendment # MIS 13-5200 that is before them.

1. We want to state that we are in favor of the Master Plan Amendment. We feel that this change would be in the best interests of Oshara residents, present and future.
2. We understand that the proposed amendment is presented by Homewise Inc. and Century Bank to increase the desirability of properties they own in Oshara Village. However, We bring to the Commissioners' attention that NOTHING will increase the desirability of Oshara properties as much as:
 - ** Completing the N.E. and S.E. connector roads to reduce traffic and safety problems in Oshara and
 - ** Solving the problem of ownership of the Waste Water Treatment Plant to ensure future viability of the plant and encourage confident investment in Oshara.
3. Oshara needs to increase both commercial and residential construction as soon as responsibly and reasonably possible. More residential building would hopefully encourage commercial development. However, several existing businesses on Oshara Blvd. may become an isolated island of commercial use within the residential area proposed for Oshara Blvd. All attempts should be made to further the goal of balance between residential and commercial use, both proposed and future. Such conversion should be as limited as is reasonable considering current economic demands in the Community College District.

Thank you for your consideration of this complex issue,

Beth Detwiler, Oshara Village resident and President, Oshara Village Home Owners Association Board

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: October 17, 2013

TO: County Development Review Committee

FROM: Miguel "Mike" Romero, Development Review Specialist Sr. *(Signature)*

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

FILE REF.: CDRC CASE # V13-5140 Rebecca Ornelas & Maria Zubia Variance

ISSUE:

Rebecca Ornelas & Maria Zubia, Applicant's, request a variance of Ordinance No. 2007-2, (Village of Agua Fria Traditional Community Zoning District), § 10.6 (Density Standards) to allow a second dwelling unit on 0.638 acres.

The property is located at 2144 Camino Polvoso, within the Traditional Community of Agua Fria, within Section 5, Township 16 North, Range 9 East (Commission District 2).

Vicinity Map:



SUMMARY:

The Applicant's request a variance of Ordinance No. 2007-2, (Village of Agua Fria Traditional Community Zoning District), § 10.6 (Density Standards) to allow a second dwelling unit on 0.638 acres. The property is located within the Traditional Community of Agua Fria where the minimum lot size is 0.75 acres per dwelling unit. Lot size can be further reduced to 0.33 acres per dwelling unit with Community Water and Sewer. The subject property is served by Community Water and Sewer. In order to have two dwelling units on the property, the lot would have to be at least 0.66 acres (28,749 sq. ft.) in size. The Applicant is lacking approximately 958 sq. ft. of property to meet Code requirements for two dwelling units.

There is currently one dwelling unit and one accessory structure on the property. The Applicant purchased the property in July, 2013, and shortly after moved a mobile home onto the property without a Development Permit from Santa Fe County. The Applicant along with her three daughters and grandchildren reside in the current residence. If the variance is granted, the Applicant intends to move an additional mobile home onto the subject property. The proposed mobile home that would be placed on the property belongs to another daughter who, does not live in the current residence or reside on the subject property. The Applicant's intention is to move this daughter onto the subject property in-order to help provide special needed care for her daughter's two young children.

Article II, § 3 (Variances) of the County Code states: "Where in the case of proposed development, it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted condition or that these conditions would result in inhibiting the achievement of the purposes of the Code, the applicant may submit a written request for a variance." This Section goes on to state "In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified." **The variance criteria does not consider financial or medical reasons as extraordinary hardships**

This Application was submitted on September 13, 2013.

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 § 10.6 (Density Standards) of the Village of Agua Fria Traditional Community Zoning District.

GROWTH MANAGEMENT AREA: El Centro, SDA-2

HYDROLOGIC ZONE: Traditional Community Zoning District in the Village 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.

FIRE PROTECTION:

Agua Fria Fire District.

WATER SUPPLY:

Agua Fria Community Water Assoc.

LIQUID WASTE:

City Public Sewer System

VARIANCES:

Yes

AGENCY REVIEW:

Agency
County Fire

Recommendation
No comment related to this variance request, will review at time of building permit submittal.

STAFF RECOMMENDATION:

Denial of a variance of Ordinance No. 2007-2 § 10.6 (Density Standards) of the Village of Agua Fria Traditional Community Zoning District).

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

1. The Applicant must obtain an After the Fact permit for the mobile home and accessory structure (As per Article II, § 4.5.2b Article II, § 2).
2. The placement of additional dwelling units or Division of land is prohibited on the property (As Per Ordinance No. 2007-2 Section 10.6).
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).

EXHIBITS:

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

August 5th, 2013

**Santa Fe County Building
And Developing Services**

**102 Grant Ave
Santa Fe, NM 87501-2061
Telephone: (505) 986-6200**

To Whom It May Concern,

Hello, my name is Rebecca Ornelas, my mother Maria G. Zubia and I bought a property located at 2144 Camino Polvoso Santa Fe, NM 87507. We moved a singlewide mobile home to the property owned by my mother and stepfather Rafael Corral Aguirre. My parents along with my two younger sisters and I live there. The purchase of this property has given our family a sense of comfort and security.

While negotiating the purchase of the property my sister and her family had been experiencing hard times. Veronica is married to Sergio A. Corral and together they have two sons. The oldest is three years old and the youngest is almost two months. Both children were born with serious medical problems and most recently my sister has been staying in Albuquerque to be with her youngest son who has been at UNM hospital since he was born.

Sebastian was born with{

}He had a surgery recently and is recovering. We don't know how long he will be in ICU (intensive care unit).

On the other hand, Sergio my oldest nephew was born with the same syndrome. Unlike Sebastian, Sergio got a, Having a{

}It was strongly recommended for him be enrolled in pre-school and he has been going since he was two. He will be starting school this month and having my sister live next door would allow us to take care of his needs.



My sister and his family need a lot of support including child care and transportation. Having them live nearby would enable my mother and I help them. We would like to petition for the county to allow my sister to move her mobile home next to ours. Veronica and Sergio own a single wide mobile home and rent a space at Country Club Gardens Mobile.

I strongly believe that having my sister living next to us will change our life in a positive manner. We would have the opportunity to better assist her with my nephews and also to be closer to them. Veronica is a house wife and would baby sit my younger sisters when my parents are working. Finally, having my sister move into the property with us would help both families financially.



Please consider my petition and help me strengthen my family during this hard time. Thank you.

Sincerely,



Rebecca Ornelas.

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										
	Res Uses	Non Res Uses			Water	Sewer	Both W&S	Residential Uses	Non-residential Uses	Residential Uses	Non Res Uses	Front & Street Side	Interior Side	Rear	
										SF	MF				
AFTC2D	.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 - VARIANCES3.1 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

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

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

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

4.1 Dwelling and Customary Accessory Structures

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

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

4.2 Requirements of Code Not Involving Size of Lot

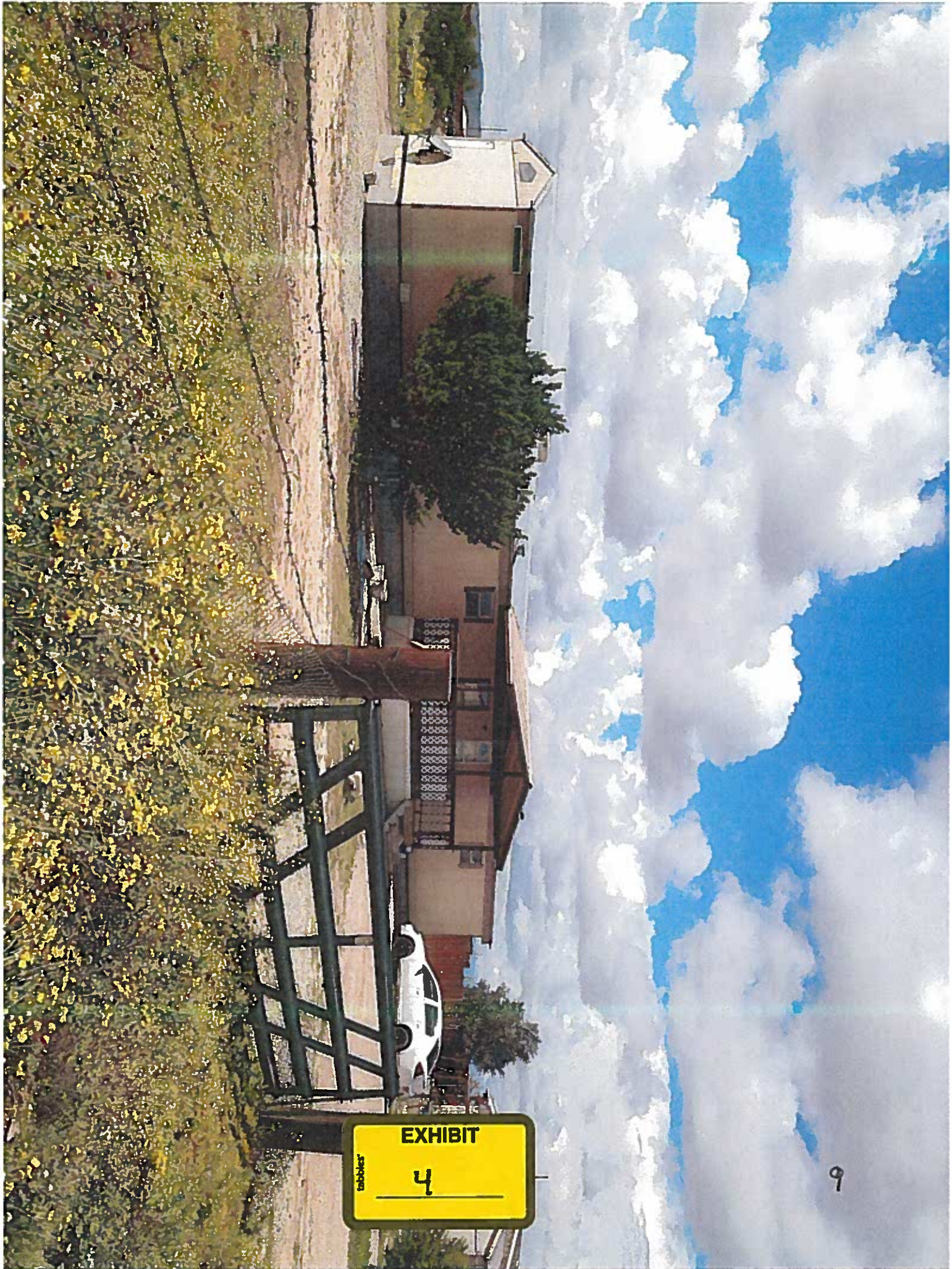
All other requirements of the Code including, but not limited to, building height, setback, use, design standards, environmental provisions, water restrictions, development, building and utility permits, and certificates of occupancy, as applicable, shall be met.

4.3 Small Lot Inheritance and Small Lot Family Transfer

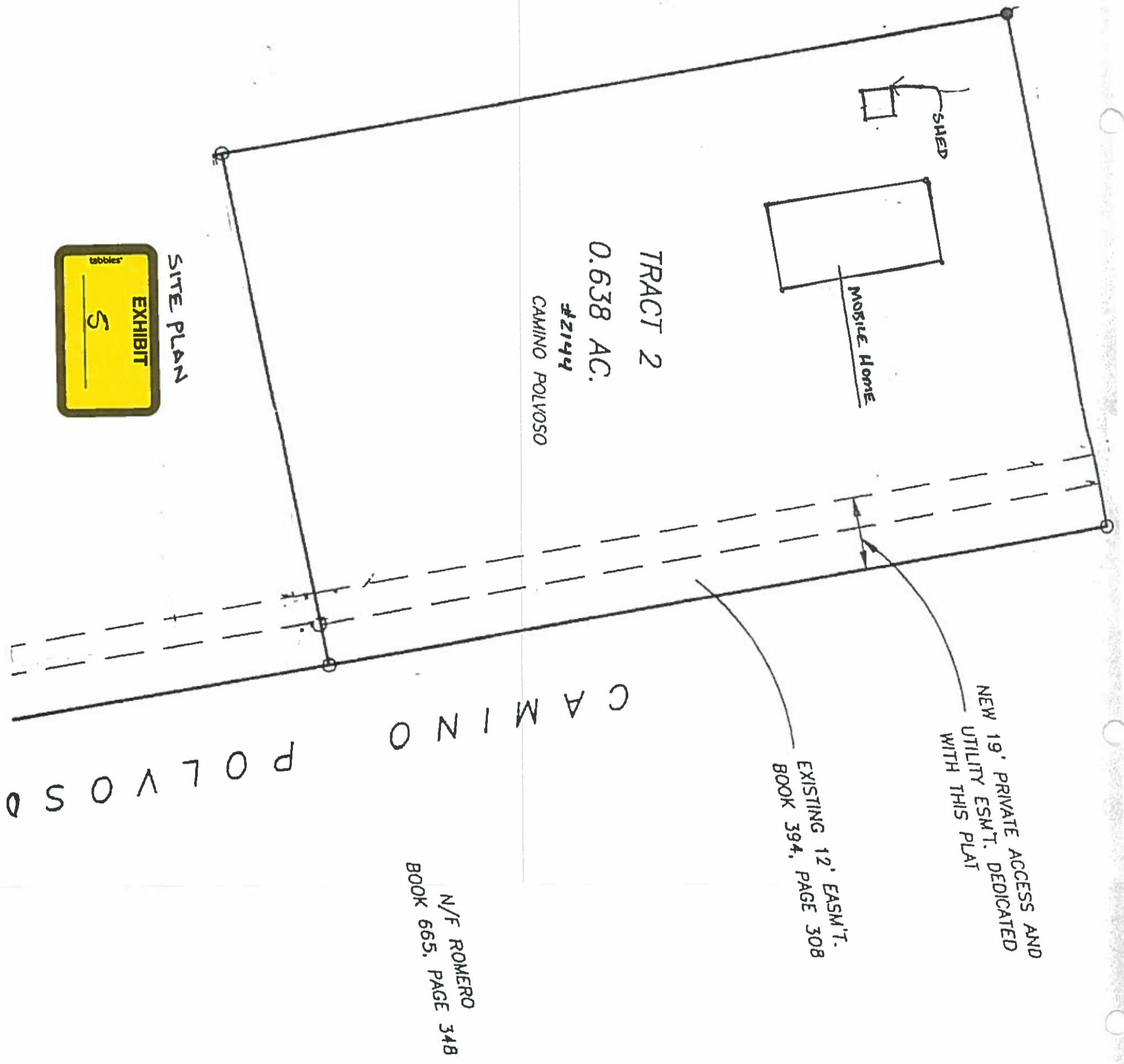
Dwellings and customary accessory structures may be erected on a lot which does not meet size requirements of the Code and is being created by inheritance or family transfer, provided the definitions, restrictions and standards of this Section are met.

4.3.1 Purposes

- 4.3.1a To maintain local cultural values by perpetuating and protecting a traditional method of land transfer within families, especially within the traditional communities; and
- 4.3.1b To permit transfers of lots which do not meet the lot size requirements of the Code from grandparents, parents or legal guardians as a one time gift to a child or grandchild in order to provide a more affordable home site for these adult children.





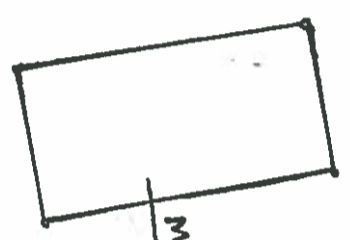


tabbles
EXHIBIT
 5

SITE PLAN

TRACT 2
 0.638 AC.
 #2144
 CAMINO POLVOSO

SHED



MOBILE HOME

CAMINO
 POLVOSO

NEW 19' PRIVATE ACCESS AND
 UTILITY EASM'T. DEDICATED
 WITH THIS PLAT

EXISTING 12' EASM'T.
 BOOK 394, PAGE 308

N/F ROMERO
 BOOK 665, PAGE 348



Legend

-  ROADS
-  DRIVEWAYS
-  Parcels

1:400

1 inch represents 33.3333



2008 Orthophotography
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.



September 11, 2013

ANTONIO LN

CAMINO POLVOSO




2144

2139

2145



Legend

-  ROADS
-  DRIVEWAYS
-  Parcels

1:1,200
1 inch represents 100 feet



2008 Orthophotography
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.



September 11, 2013

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: October 17, 2013

TO: County Development Review Committee

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

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

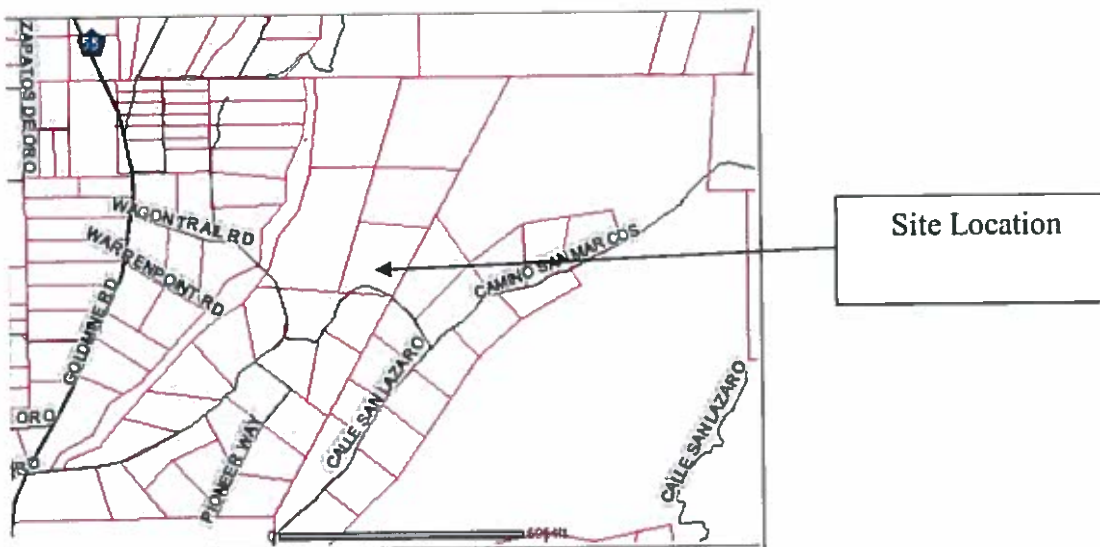
FILE REF.: CDRC CASE # V 13-5250 Thomas Wagner Variance

ISSUE:

Thomas Wagner, 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 residence on 40.01 acres.

The property is located at 67 Camino San Marcos, Off Goldmine Road (CR59B), within Sections 3, 4, 9, & 10, Township 13 North, Range 8 East, (Commission District 3).

Vicinity Map:



NRB-1

REQUEST SUMMARY:

The Applicant requests a variance to allow the construction of a residence on Tract 2A-2 consisting of 40.01 acres. The subject lot was created on September 2, 2009, by way of Family Transfer for Sharon Thams Carter. Tract 2A-2 was deeded to Sam Carter Jr. on September 2, 2009, and was then sold to the Applicant on October 23, 2009.

At time of Plat recordation, a note was placed on the Plat which states: "Prior to issuance of Development Permits for dwellings on lots 2A-1 and 2A-2, Camino San Marcos roadway and drainage crossing within lot 2A-2 shall be upgraded to County all weather standards". This note was placed on the Plat due to the property owner at the time not making the necessary improvements to Camino San Marcos and agreeing that any recipients of the Tracts hold the property for a period of three years in accordance with Article III, § 2.4.2b.3c for off-site road improvements (**Refer to Exhibit 6**). Since the recipient of Tract 2A-2 sold the property prior to holding the property for the three year period, off-site improvement requirements of the Code should have been met at the time of sale.

The property is accessed from, Wagon Trail Road which connects to Camino San Marcos. These are private roadways, Wagon Trail Road and Camino San Marcos range from 18 to 24 foot wide base course driving surfaces. Camino San Marcos crosses one arroyo/drainage easement which is impacted by stormwater runoff within the jurisdiction of Santa Fe County, therefore Ordinance No. 2008-10 applies to this Application (**Refer to Article 3, § 3.1 Attached as Exhibit 3**). The portion of Camino San Marcos that services the property is approximately .67 miles in length. Wagon Trail Road and Camino San Marcos do have an all-weather driving surface however, being that Camino San Marcos crosses an arroyo/drainage easement, it may be frequently impassible during and after inclement weather, and thereby is not all weather accessible. After conducting a site inspection on the property, it was determined that a significant amount of runoff impacted this arroyo/drainage easement in the recent storm events.

The Applicant states he is not in a position to upgrade the arroyo/drainage crossing on Camino San Marcos to an all-weather access. The Applicant also states that he has received an Engineer's cost estimate for the improvements and it would be in excess of \$50,000, a cost which is prohibitive for what he considers to be his driveway. At this time the Applicant simply wishes to use the road as-is for access to his future residence.

This Application was submitted on August 21, 2013.

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 for the construction of a residence on 40.01 acres, which due to site conditions would require a variance from Article 4, § 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management).

VARIANCES: 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 II, § 3 (Variances) of the County Code states: “Where in the case of proposed development, it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted condition or that these conditions would result in inhibiting the achievement of the purposes of the Code, the applicant may submit a written request for a variance.” This Section goes on to state “In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified.” **(The variance criteria does not consider financial or medical reasons as extraordinary hardships).**

GROWTH MANAGEMENT AREA: Galisteo, SDA-3

HYDROLOGIC ZONE: Homestead Hydrologic Zone, minimum lot size per Code is 160 acres per dwelling unit. Lot size can be reduced to 40 acres per dwelling unit with signed and recorded water restrictions.

ACCESS: Via arroyo/drainage easement, does not comply with Article 4, § 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management).

FIRE PROTECTION: Turquoise Trail Fire District.

WATER SUPPLY: Domestic Well

LIQUID WASTE: Conventional Septic System

AGENCY REVIEW:	<u>Agency</u>	<u>Recommendation</u>
	County Fire	Denial

STAFF RECOMMENDATION: Denial of a variance of Article 4, § 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management).

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. 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).

2. A note 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 Ordinance. Site Access, including access by Emergency vehicles, may not be possible at all times. (As per Ordinance 2008-10).

EXHIBITS:

1. Letter of request
2. Review Agency Comments
3. Article 3, § 3.1 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management)
4. Article 4, § 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management)
5. Article II, § 3 (Variances)
6. Article III, Section 2.4.2b.3c (Special Provisions for Family Transfer Improvements)
7. Survey Plat
8. Site Photographs
9. Aerial of Site and Surrounding Area

Thomas Wagner
c/o 1437 3rd St.
Manhattan Beach, CA
310-387-4929
twagner@kurma.com

August 30, 2013

Santa Fe County
Attn: Wayne Dalton
Land Use Department
Santa Fe NM

Re: Camino San Marcos 67 - Variance Request for Arroyo crossing on
Camino San Marcos

Dear Mr. Dalton:

I am requesting a variance from the requirement to upgrade Camino San Marcos to an all-weather surface with drainage crossing on my property. The road is currently being used as access for only two developed properties, one permitted residence, one ranch, and, when developed, mine would be the third.

I intend to build a small residence (cabin) on the far side of the Arroyo, where Camino San Marcos connects to my driveway at mile 0.67. Camino San Marcos is an easement across my property that connects with Three Sisters Lane, also an easement on my property, leading to several undeveloped 40 Acre lots.

I obtained an engineering design based on the current requirements that would cost more than \$50,000 to execute, a cost which is obviously prohibitive for what I consider to be my driveway. At this time, I simply wish to use the road as-is for access to my future residence.

If further development takes place, I believe that the developers would be responsible for the upgrade of the road at that time. See the Covenants for Ranchitos de Santa Fe Phase I, Recorded document 1413033.

The Fire Department and you have both inspected the road in its current condition. It is more than twenty feet wide in all places and the gravel surface is maintained twice per year per the Covenants referenced above. I believe the roadway to be safe and adequate for current use and for fire protection purposes, as I have never been advised to the contrary.



NBB-5

Aside from this formal request for a variance, please advise of any additional documents or related materials required to consider my request. Thank you for your attention to this matter,

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Wagner', written in a cursive style.

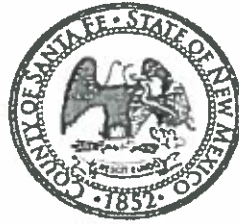
Thomas Wagner

NBB-6

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

Santa Fe County Fire Department Fire Prevention Division

Official Development Review

Date	September 26, 2013		
Project Name	Wagner, Thomas		
Project Location	6 Camino San Marcos		
Description	Variance of Ordinance #2008-10	Case Manager	Wayne Dalton
Applicant Name	Thomas & Sigrid Wagner	County Case #	13-5250
Applicant Address	2115 Belmont Lane Redondo Beach, CA 90279	Fire District	Turquoise Trail
Applicant Phone	310-387-4929		
Review Type:	Commercial <input type="checkbox"/>	Residential <input checked="" type="checkbox"/>	Sprinklers <input type="checkbox"/> Hydrant Acceptance <input type="checkbox"/>
	Master Plan <input type="checkbox"/>	Preliminary <input type="checkbox"/>	Final <input type="checkbox"/> Inspection <input type="checkbox"/> Lot Split <input type="checkbox"/>
	Wildland <input type="checkbox"/>	Variance <input checked="" type="checkbox"/>	
Project Status:	Approved <input type="checkbox"/>	Approved with Conditions <input type="checkbox"/>	Denial <input checked="" type="checkbox"/>

The Fire Prevention Division/Code Enforcement Bureau of the Santa Fe County Fire Department has reviewed the above submittal and requires compliance with applicable Santa Fe County fire and life safety codes, ordinances and resolutions as indicated (Note underlined items):

Summary of Review

- The existing 50' access and utility easement for the subdivision road Camino San Marcos does not meet the minimum County standards for fire apparatus access roads within this type of development. As shown on the submitted plat, the area where the road crosses the arroyo is a designated drainage easement that could potentially flood and create a situation where emergency vehicles could not respond. Point # 15 on the Plat notes indicate Camino San Marcos through Lot 2A-2 shall be upgraded prior to issuance of building permits for dwellings on Lot 2A-1 and 2A-2. Drainage improvement requirements are also on special building conditions notes on plat. (page #2)
- Driveway, turnouts and turnarounds shall be County approved all-weather driving surface of minimum 6" compacted basecourse or equivalent. Minimum gate and driveway width shall be 14' and an unobstructed vertical clearance of 13'6". (page #2)
- No building permits shall be granted until such time as the driveway/access has been inspected and approved by the Santa Fe County Fire Marshal. (page #2)



- Prior to acceptance and upon completion of the permitted work, the Contractor/Owner shall call for and submit to a final inspection by this office for confirmation of compliance with the above requirements and applicable Codes. (page #4)

Fire Department Access

Shall comply with Article 9 - Fire Department Access and Water Supply of the 1997 Uniform Fire Code inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal

- **Fire Access Lanes**

Section 901.4.2 Fire Apparatus Access Roads. (1997 UFC) When required by the Chief, approved signs or other approved notices shall be provided and maintained for fire apparatus access roads to identify such roads and prohibit the obstruction thereof or both.

- **Roadways/Driveways**

Shall comply with Article 9, Section 902 - Fire Department Access of the 1997 Uniform Fire Code inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal

No building permits shall be granted until such time as the driveway/access has been inspected and approved by the Santa Fe County Fire Marshal.

The existing 50' access and utility easement for the subdivision road Camino San Marcos does not meet the minimum County standards for fire apparatus access roads within this type of development. As shown on the submitted plat, the area where the road crosses the arroyo is a designated drainage easement that could potentially flood and create a situation where emergency vehicles could not respond. Point # 15 on the Plat notes indicate Camino San Marcos through Lot 2A-2 shall be upgraded prior to issuance of building permits for dwellings on Lot 2A-1 and 2A-2. Drainage improvement requirements are also on Special Building Conditions notes on plat.

Driveway, turnouts and turnarounds shall be County approved all-weather driving surface of minimum 6" compacted basecourse or equivalent. Minimum gate and driveway width shall be 14' and an unobstructed vertical clearance of 13'6".

The driveway shall incorporate a turnaround area for emergency vehicle purposes such as a cul-de-sac or K-type or hammerhead type turnaround conforming to the access and turnaround requirements and dimensions of the Santa Fe County Fire Department.

- **Street Signs/Rural Address**

Section 901.4.4 Premises Identification (1997 UFC) *Approved numbers or addresses shall be provided for all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property.*

Section 901.4.5 Street or Road Signs (1997 UFC) *When required by the Chief, streets and roads shall be identified with approved signs.*

Properly assigned legible rural address shall be posted and maintained at the entrance to the individual lot or building site within 72 hours of the commencement of the development process.

- **Slope/Road Grade**

Section 902.2.2.6 Grade (1997 UFC) *The gradient for a fire apparatus access road shall not exceed the maximum approved.*

The driveway shall not exceed 11% slope and shall have a minimum 28' inside radius on curves.

- **Restricted Access/Gates/Security Systems**

Section 902.4 Key Boxes. (1997 UFC) *When access to or within a structure or an area is unduly difficult because of secured openings or where immediate access is necessary for life-saving or firefighting purposes, the chief is authorized to require a key box to be installed in an accessible location. The key box shall be of an approved type and shall contain keys to gain necessary access as required by the chief.*

To prevent the possibility of emergency responders being locked out, all gates on a public way shall be operable by means of a key or switch, which is located in a Knox Lock entry system, keyed to the Santa Fe County system. Details, information and forms are available from the Fire Prevention Division

Fire Protection Systems

Automatic Fire Protection/Suppression

Due to its remote location and the possibility of this residence being made inaccessible due to inclement and various other conditions, for life safety and property protection this office highly recommends the installation of an Automatic Fire Suppression system meeting NFPA 13D requirements. . It is also highly recommended that the homeowners check with their insurance providers to find their requirements. Assistance in details and information are available from the Fire Prevention Division.

General Requirements/Comments

- **Inspections/Acceptance Tests**

Shall comply with Article 1, Section 103.3.2 - New Construction and Alterations of the 1997 Uniform Fire Code, inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal

Prior to acceptance and upon completion of the permitted work, the Contractor/Owner shall call for and submit to a final inspection by this office for confirmation of compliance with the above requirements and applicable Codes.

▪ Permits

As required

Final Status

Recommendation for Development Plan approval with the above conditions applied.

Tim Gilmore, Inspector


Code Enforcement Official

10-1-13
Date

Through: David Sperling, Chief

File: DevRev/TT WagnerCamSanMarcos 093013

Cy: Buster Patty, Fire Marshal
Wayne Dalton, Land Use Applicant
District Chief
File

- c. Maintain a record of all variance actions, including justification for their issuance and report such variances issued in the Biennial Report submitted to the Federal Emergency Management Agency (FEMA).
- H. Provide Map Determinations by making interpretations of the FIRM, supported by the provisions and requirements of this Ordinance where needed. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Article 2, § 1.6.
- I. Complete and submit Biennial Report to FEMA.
- J. Assure Santa Fe County's General Plan is consistent with floodplain management objectives herein.

ARTICLE 3

GENERAL PROVISIONS

SECTION 3.1 LANDS TO WHICH THIS ORDINANCE APPLIES

This Ordinance shall apply to all:

- A. Special Flood Hazard Areas (SFHA) within the jurisdiction of Santa Fe County;
- B. Lands directly adjacent to, traversed by, or bisected by a SFHA within the jurisdiction of Santa Fe County;
- C. Lands impacted by stormwater runoff within the jurisdiction of Santa Fe County.

SECTION 3.2 BASIS FOR ESTABLISHING SPECIAL FLOOD HAZARD AREAS

The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study for Santa Fe County, New Mexico," dated June 17, 2008, with Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and FBFM) and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this Ordinance. This FIS and attendant mapping represent the minimum area of applicability of this Ordinance and may be supplemented by studies for other areas which allow implementation of this Ordinance and which are recommended to the Board of County Commissioners by the Floodplain Administrator. The FIS, and FIRMs are on file at Santa Fe County, Growth Management Department, Land Use Division at 102 Grant Avenue, Santa Fe, New Mexico.

SECTION 3.3 ESTABLISHMENT OF DEVELOPMENT PERMITS

- A. It is recognized by Santa Fe County that the FIRM is meant for the establishment of flood risk, and that risk to properties is also present outside the FEMA mapped floodplain as indicated on



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.



NBB-12

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

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II - 9 NBB - 13

along property line of adjacent parcels or lots which, when added together, provide the total required width.

- (2) Roads serving two (2) or fewer lots may be treated as driveways and do not have to be constructed until the time of building construction. The number of driveways accessing a public road shall be minimized. The use of shared driveways is encouraged
- (3) When a tract to be developed borders an existing road having a right-of-way insufficient to conform to the minimum standards required by these regulations, which right-of-way will be used by the proposed development, sufficient right-of-way shall be platted, and dedicated or reserved in such a way as would make the resulting right-of-way or road conform with Code requirements.
- (4) The maximum grade of built roads shall be eleven percent (11%). Installation of culverts, where applicable, shall be required at intersections of driveways with County roads.
- (5) Road Construction and/or Road Cut Permits must be obtained if road or driveway construction is to precede any other development on any lot.
- (6) Divisions of land for grazing or farming as identified in Article II, Section 2.3.1.a.ii(c) are exempt from on-site and off-site road requirements.
- (7) Divisions of land that create no parcel smaller than one hundred forty (140) acres as identified in Article II, Section 2.3.1.a.ii(e) are exempt from on-site and off-site road requirements, except when more than one (1) such parcel is created in an area of land, the Code Administrator may require on and off-site road improvements.
- (8) Other land divisions as listed in Article II, Section 2.3.1.a.ii. (a) through (h) may be exempt from road construction standards at the discretion of the Code Administrator.
- (9) In addition to the requirements of this Section, summary review subdivisions shall meet the road improvements of Article V, Section 5.5.6.

(b) Other Off-Site Improvements

If the Code Administrator determines that it is necessary for health, safety, or welfare reasons, the applicant may be required to construct improvements to existing off-site facilities or to construct planned facilities or portions of planned facilities which can provide relief to existing facilities. The purpose of requiring such improvements is to assure that such facilities which may be negatively impacted, either individually or cumulatively, by the addition of new development, will function efficiently. For the purposes of this Section, off-site facilities include but are not limited to, water systems and sewer systems.

(c) Special Provisions for Family Transfer Improvements

Off-site improvement requirements do not apply to lots created by Family Transfer for the first lot per immediate family member, Small Lot Family Transfer, or Small Lot Inheritance Transfer provided that the recipient does not sell or transfer such lot for three years from the time the plat is recorded. For second and subsequent lots and for lots sold or transferred by the recipient prior to such three year period off-site improvement requirements of this Code shall be met at the time of sale. For Family Transfers to be exempt

EXHIBIT

6

III - 16 NBB - 14

from off-site road improvements for the first lot, the person transferring the lot shall file an affidavit as described in Article II, Section 4.3.2b.v.

- (d) Water Conservation. All lots created in accordance with Sections 2.3.1a.ii(b), (d), (f), (g) and (h), which are less than ten (10) acres in size shall be subject to water conservation covenants as set forth in Article VII, Section 6.6.2.

History. Sections 2.3 and 2.4.1 of Section 2 were amended by County Ordinance 1996-3, providing for site planning standards, required submittals and a review procedure regarding terrain management. Section 2.4.2 was amended by Ordinance 1996-8 to include summary review subdivisions, update road and access requirements, clarify provisions for family transfers and add water conservation requirements for some land divisions.

SECTION 3 - HOME OCCUPATIONS

The requirements of this Section 3 of Article III apply to home occupations.

3.1 Location of District

Home occupations are allowed anywhere in the County, provided all of the requirements of the Code are met.

3.2 Performance Standards

A development permit involving a home occupation may be approved only if the following standards are met:

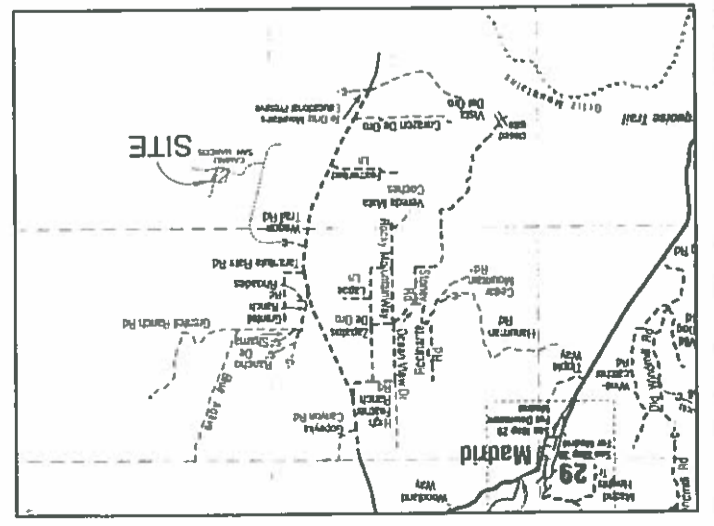
- 3.2.1 Not more than six (6) persons, other than members of a family residing on the premises, shall be regularly engaged in work at the site of the home occupation;
- 3.2.2 The use of the dwelling for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 50% of the floor area of the dwelling including accessory buildings shall be used in the conduct of the home occupation;
- 3.2.3 There shall be no change in the outside appearance of the building or premises, nor other visible evidence of the conduct of the home occupation, except for one (1) non-illuminated name plate sign not more than nine square feet in area;
- 3.2.4 Parking for employees and for customers or clients of the home occupation as required by Section 9 of this Article III shall be provided off the street;
- 3.2.5 No equipment or process shall be used in the home occupation which significantly interferes with the existing use of property in the adjacent area.

3.3 Submittals

The application shall be submitted on a form provided by the Code Administrator which shall include a description of:

- 3.3.1 Activities involved;
- 3.3.2 Materials and equipment used;
- 3.3.3 Methods of operation;
- 3.3.4 Number of employees;
- 3.3.5 Type of product to be produced, serviced or repaired;

NBB-15



**SANTA FE COUNTY APPROVAL,
NOTES AND CONDITIONS:**

APPROVALS
 DATE: 8/31/09
 COUNTY LAND USE ADMINISTRATION
 DEVELOPMENT PERMIT NO. 2050
 RURAL ADDRESSING
 8/31/09

1. MAINTENANCE OF ACCESS ROADS AND UTILITY EASEMENTS IS THE RESPONSIBILITY OF THE OWNER. SMALL IMPROVEMENTS WILL BE MAINTAINED BY THE SANTA FE CO. PUBLIC WORKS DEPT.
2. 100 YEAR FLOOD PLAIN IS SHOWN AS ACCORDING TO FIRM PANEL #200403C-6500 DATED 6/17/08.
3. PURSUANT TO THE SANTA FE COUNTY LAND DEVELOPMENT CODE #200403C-6500 DATED 6/17/08.
4. SANTA FE COUNTY'S APPROVAL OF THIS SURVEY PLAN DOES NOT INCLUDE THE CONSTRUCTION OF PRIVATE EASEMENTS OR ROADS OR ROADS II IS REQUIRED THAT AN ADDITIONAL DEVELOPMENT PERMIT BE APPLIED FOR AND THEN APPROVED BY THE SANTA FE COUNTY LAND USE ADMINISTRATION.
5. EXISTING NATURAL DRAINAGEWAYS WILL NOT BE MOVED OR IMPROVED WITHOUT THE WRITTEN APPROVAL OF THE LAND USE ADMINISTRATION OR COUNTY HYDROLOGIST. DEVELOPMENT SHALL NOT IMPROVE HISTORIC FLOW PATTERNS OR PATTERNS TO OR FROM THESE LOTS.
6. THE APPROVAL OF THIS PLAN DOES NOT CONSTITUTE THE APPROVAL OF ANY FURTHER DEVELOPMENT INCLUDING BUILDING PERMITS.
7. THE PARCELS AS PLATTED HEREON ARE SUBJECT TO ARTICLE VI, SECTION 3 AND ORDINANCE 2008-10 OF THE SANTA FE COUNTY TERRAIN MANAGEMENT REGULATIONS AT THE TIME OF ANY DEVELOPMENT.
8. THE LOTS HEREON ARE WITHIN THE PLANNING AND PLATTING JURISDICTION OF THE COUNTY OF SANTA FE.
9. THESE LOTS ARE SUBJECT TO SANTA FE COUNTY FIRE AND RESCUE IMPACT FEES AT THE TIME OF APPLICATION FOR BUILDING PERMIT.
10. BUILDABLE AREAS SHOWN (AREAS NOT INDICATED AS DRAINAGE EASEMENTS) HEREON HAVE A LESS THAN 15% SLOPE AND THERE ARE NO DRAINAGE EASEMENTS OTHER THAN THOSE SHOWN AS DRAINAGE EASEMENTS.
11. THESE TRACTS CREATED BY FAMILY TRANSFER.
12. WATER USE/WELL WITHDRAWAL ON THESE TRACTS IS RESTRICTED BY CONVEYANCE IN THE OFFICE OF THE COUNTY CLERK AND RECORDED AS DOCUMENT NO. 1576050.
13. THESE TRACTS ARE SUBJECT TO THE REQUIREMENTS OF THE FIRE MARSHAL AFFIDAVIT FILED IN THE OFFICE OF THE COUNTY CLERK AND RECORDED AS INSTRUMENT NO. 1576051.
14. RECORDED INSTRUMENTS SHOWN HEREON MUST RELATE TO THE TRACT(S) OF THE SANTA FE COUNTY LAND DEVELOPMENT CODE.

SPECIAL BUILDING PERMIT CONDITIONS
 DEVELOPMENT PERMITS FOR BUILDING CONSTRUCTION WILL NOT BE ISSUED UNTIL REQUIRED IMPROVEMENTS FOR ROADS, FIRE PROTECTION AND DRAINAGE ARE COMPLETED AS APPROVED BY STAFF.

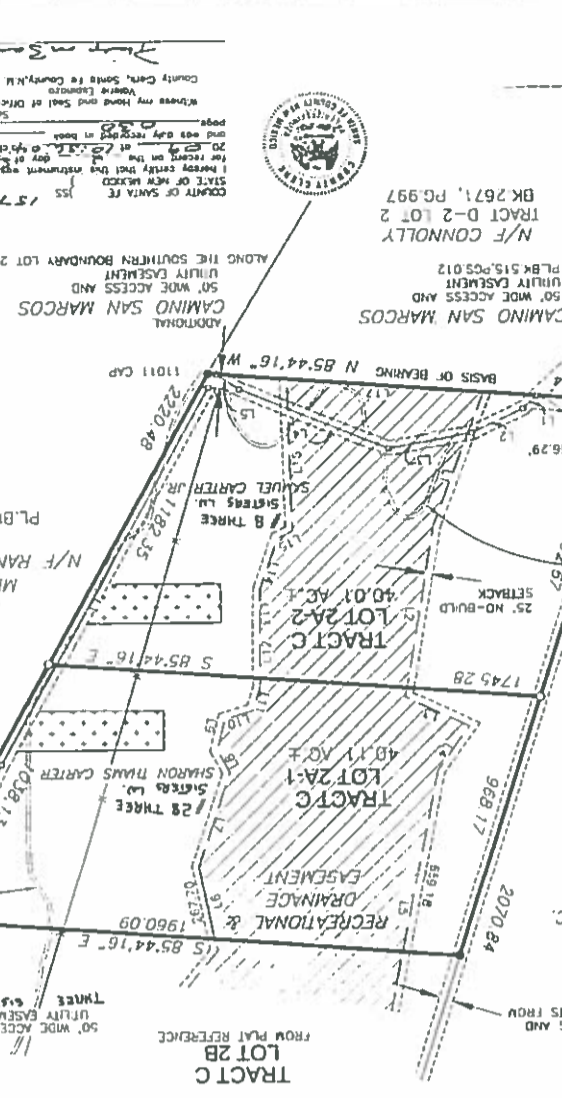
TRACT C
 BK 1460, PG. 733
 N/F MELINDA INC.
 160.16 AC.±

TRACT C
 BK 1460, PG. 733
 N/F MELINDA INC.
 160.16 AC.±

SURVEYORS CERTIFICATE
 I HEREBY CERTIFY THAT THIS PLAN AND THE NOTES HEREON ARE AN ACCURATE DELINEATION OF A FIELD SURVEY COMPLETED BY ME OR UNDER MY DIRECTION ON SEPTEMBER 25TH, 2008, AND BELIEVE TO BE CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.
 PRACTICING IN NEW MEXICO.

RICHARD A. CHATROOP
 N.M.P.L.S.#11011

COUNTY OF SANTA FE
 STATE OF NEW MEXICO
 I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD AND WAS NOT RECORDED IN BOOK AND PAGE NUMBER OF THE RECORDS OF THE COUNTY OF SANTA FE.



CAMINO SAN MARCOS
 LINE TABLE

LINE	LENGTH	BEARING
L1	68.07	N66.32.29.2E
L2	198.60	N67.49.11.1E
L3	298.74	N79.34.01.7E
L4	569.44	S67.49.27.1E
L5	98.11	S59.59.43.1E

RAJAS
 CURVE TABLE

CHORD DIST	CHORD BEG	CHORD END	DELTA
311.34	N15.00.41.1E	S17.20.24.1W	347.33
375.29	S17.20.24.1W	S29.07.55.1W	375.29

CENTERLINE
 50' ACCESS & UTILITY ESMT.

LINE	LENGTH	BEARING
L1	1932.01	N28.58.56.1E

DRAINAGE EASEMENT
 LINE TABLE

LINE	LENGTH	BEARING
L1	507.39	N70.40.06.1E
L2	624.47	N68.22.09.1E
L3	247.19	N65.04.22.1E
L4	194.29	N51.14.47.1E
L5	93.38	N11.74.00.1E
L6	312.12	S17.09.47.1E
L7	353.08	S18.26.45.1W
L8	80.12	S29.04.12.1E
L9	112.57	S17.30.14.1W
L10	105.33	S17.04.52.1W
L11	86.25	S18.74.74.1W
L12	227.65	S00.12.17.1E
L13	127.65	S01.38.14.1W
L14	180.43	S18.29.17.1W
L15	59.09	S62.47.58.1W
L16	544.30	S01.47.28.1E
L17	694.85	N44.44.16.1W

NOTARY PUBLIC
 DAY OF February 2009
 BY COMMISSION EXPIRES 2/28/2010

DEDICATION AND AFFIDAVIT
 THIS DIVISION CONTAINS 60.12 AC.±, AND LESS WITHIN THE PLANNING AND PLATTING JURISDICTION OF THE COUNTY OF SANTA FE, NEW MEXICO.
 DENOTES BRASS MONUMENT
 DENOTES POINT CALCULATED
 DENOTES BRASS MONUMENT
 DENOTES BURIED AREA
 DENOTES EASEMENT OR EASEMENT
 DENOTES FENCE LINE
 107400

NEW MEXICO REGISTRATION NO. 11011
 PROFESSIONAL LAND SURVEYOR
 RICK CHATROOP
 UPC NO. 1-045-078-469-012

FOR
 FAMILY TRANSFER LAND DIVISION
 SHARON THAMS CARTER
 TRACT C
 OF
 LOT 2A

MELINDA INC.
 N/F RANCHITOS DE SANTA FE
 LOT 33
 PL BK 605, PGS 031

MELINDA INC.
 N/F RANCHITOS DE SANTA FE
 LOT 40
 PL BK 605, PGS 031

EASEMENT NOTE
 EASEMENT LOCATIONS SHOWN ARE INTENDED TO REPLACE THE UNIMPROVED EASEMENTS AND GAVEL ROAD EASEMENTS SHOWN ON PLAT REFERENCE. THESE LOCATIONS MAY REQUIRE REVISIONS AND/OR ADDITIONS TO MEET LOCAL PERMIT AND TERRAIN MANAGEMENT REQUIREMENTS AS DETERMINED BY THE SANTA FE COUNTY LAND USE DEPT. AND THE FUTURE DIVISION OF THE LOTS SHOWN HEREON.

LEGEND AND NOTES
 DENOTES POINT FOUND (11010 CAP UNLESS OTHERWISE NOTED)
 DENOTES POINT CALCULATED
 DENOTES BRASS MONUMENT
 DENOTES BURIED AREA
 DENOTES EASEMENT OR EASEMENT
 DENOTES FENCE LINE
 107400



NBS



tabbles
EXHIBIT
8

17-17







02/19/20



NBB-21

