

DRAFT

subject to approval

MINUTES OF THE
SANTA FE COUNTY
DEVELOPMENT REVIEW COMMITTEE

Santa Fe, New Mexico

December 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 4:00 p.m. at the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

County Clerk Geraldine Salazar called which preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

Members Present:

Juan José Gonzales, Chair
Susan Martin, Vice Chair
Phil Anaya
Dan Drobnis
Frank Katz
Manuel Roybal

Member(s) Excused:

Maria DeAnda

Staff Present:

Rachel Brown, Assistant County Attorney
Vincente Archuleta, Development Review Specialist
Wayne Dalton, Building and Development Services Supervisor
Vicki Lucero, Building and Development Services Manager
Buster Patty, Fire Marshal
John M. Salazar, Development Review Specialist

IV. APPROVAL OF AGENDA

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

V. **APPROVAL OF MINUTES: October 17, 2013**

Member Anaya moved to approve the October minutes as submitted. Member Martin seconded and the motion passed by unanimous [6-0] voice vote.

VI. **OLD BUSINESS**

None was presented.

VII. **NEW BUSINESS**

- A. **CDRC CASE # APP 13-5320 Janet Eigner Appeal: Janet Eigner, Applicant, is appealing the Land Use Administrator's decision to approve a request for a home occupation business registration allowing a gunsmith business which conducts background checks, sells, services and repairs firearms. The property is located at 74 Verano Loop, in the Eldorado Subdivision, within Section 7, Township 15 North, Range 10 East, (Commission District 5).**
[Exhibit 1: Area residents' letters supporting appeal]

John Salazar presented the staff report as follows:

“On October 11, 2013, Mr. Steven Kaiser applied for a home occupation business registration. Mr. Kaiser was requesting permission for a gunsmithing business to service, repair and sell firearms. The Santa Fe County Fire Prevention Division along with the Growth Management Code Enforcement conducted reviews and inspections which resulted in each returning favorable reviews recommending approval.

“The Land Use Administrator reviewed the application as it relates to the Home Occupation requirements listed in the Land Development Code in Article III, Section 3. The Land Use Administrator has determined that the subject application conforms to Code requirements as follows: 3.2.1, Not more than six persons, other than members of a family residing on the premises shall be regularly engaged in work at the site of the home occupation; Mr. Kaiser is the only employee; 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 percent of the floor area of the dwelling including accessory buildings shall be used in the conduct of the home occupation; Mr. Kaiser is proposing to use 194 square feet of his 2290 square foot home; there will be no change to the outside appearance of the home as no sign will be posted on the property, the traffic will be minimal and all of the work takes place indoors; 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; Mr. Kaiser has stated that he will have no other employees other than himself. Customers or clients who do come to the property will be by appointment only and will park in his driveway off of the

road in front of his garage which will not be visible from Verano Loop. Growth Management policy is to allow an applicant up to eight appointments per day for a home occupation however Mr. Kaiser has stated that his appointments will be well under that number as most drop offs and pick-ups will most likely take place off site and the background checks are done via the internet; 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. All services are provided inside of the home where firearms that are being repaired or are for sale will be locked away safely. Since Mr. Kaiser is not selling ammunition nor does he fire the firearms on his property, the Land Use Administrator concluded that the business would not have a significant impact on adjacent properties.

“The Appellant submitted petitions to the County from various neighbors along Verano Street as well as other neighbors from around the community in person and via email in October and November which were taken into consideration by the Land Use Administrator while making a decision.

“The Appellant has stated that she along with her neighbors are appealing the County’s decision because gunsmithing is not an appropriate use for this area as they believe it is in opposition to their idea of a safe, peaceful residential neighborhood.”

Mr. Salazar said the appellant was advised that any person aggrieved by a decision of the Code Administrator under Section 2.3.1, Administrative Procedures, may file an appeal to the County Development Review Committee within five working days of the date of the Code Administrator’s decision. An application was submitted on November 8, 2013.

Growth Management staff have reviewed this Application for compliance with pertinent Code requirements and finds no evidence that would justify overturning the Land Use Administrator’s decision to approving the home occupation, stated Mr. Salazar.

Ms. Brown advised the Committee that their decision is final; however, the decision can be appealed to the BCC.

Notice of the appeal was sent to property owners within 100 feet of Mr. Kaiser’s property, there was an ad in the legal section and the property was properly posted, stated Mr. Salazar.

Duly sworn, Dr. Janet Eigner, 6 Verano Drive, Eldorado, Santa Fe said there is a qualitative difference between a gunsmith business and home occupations. Citing County business regulation 110.03, Section 2.b as basis for the appeal, “. . .that the inspection of the business shall include but is not limited to the prevention of nuisance conditions and protection of health, safety and welfare of County residents and patrons to the proposed licensed business.” The regulation also states that the County Treasurer may refuse to issue a license to an applicant when the investigation reports conditions which are unfavorable to the issuance.

Dr. Eigner said the County's interpretation of the section was incorrect. The fire and land use inspectors did not take into account public health and mental health dangers that studies have cited related to having guns in the home – whether locked up or not.

Dr. Eigner said there are 38 households and 48 signatures to the petition. These are all neighbors of Mr. Kaiser opposing the home occupation license and urge him to find a commercial location for his business.

Dr. Eigner mentioned with irony that the ECIA is worried about chickens in the area but with “strangers, loss of property values or the guns’ of strangers.” She urged the CDRC to join the community in its desire to expand the letter of the law regarding health, safety and welfare by prohibiting gunsmiths in their neighborhood.

Member Katz commented that there could easily be a neighbor with 25 unlocked guns and lots of ammunition, which is legal. Dr. Eigner said it was clearly unwise to have unlocked guns but particularly it is the strangers accessing their densely populated neighborhood seeking a gunsmith that concerns the residents. She acknowledged the country's gun laws do not insure a family's safety.

Member Katz said the CDRC lacks a legal basis to tell the business owner he can't have a legal home occupation business.

Dr. Eigner said she had a “friendly” hour conversation with the business owner where she discussed her concerns. Stating she understood the legal basis to overturn the approval was lacking, she hoped the CDRC would initiate the steps necessary to change the regulations and laws and enforce protecting the health, safety and welfare of County residents.

Member Drobni informed the participants that he was a resident of Eldorado and a member of the ECIA and it was his understanding the ECIA approved the home occupation permit.

Duly sworn, retired clinical psychologist Evelyn Gauthier, Verano Drive resident, said the County regulations focus on prevention. Clearly guns are dangerous and there is a large unknown of the people coming into the neighborhood to purchase guns. She mentioned the distance from the main road to reach Mr. Kaiser's home that traverses a densely populated area.

Duly sworn, Dr. Nancy Brennan, a Verano Loop resident, thanked the CDRC members for their service to the County. She repeated the stated purpose of the County Code is to protect the health, safety and welfare of County residents.

Dr. Brennan said that protection is being afforded to Mr. Kaiser and now was the time to protect the residents. Gun ownership is not the objection nor is home occupation; instead, it is a gun business that brings traffic into a residential area. She expressed concern that property values would decline especially if police are cruising the area. Mr. Kaiser's residence is at the end of the street and the business will generate unwanted traffic.

Dr. Brennan said she would not have purchased her Verano Loop home had there been a gun business on the street. She noted that the County lacks resources to monitor the traffic and safety of the residents in her neighborhood.

Under oath, Joseph Eigner pointed out that selling liquor is a legal business but there are restrictions to where liquor can be sold in proximity to schools. He pointed out there are school busses and children all around this residential area.

Mr. Eigner mentioned a theft in the area where a safe with its contents was stolen. He suggested the same thing could happen to Mr. Kaiser.

Duly sworn, Ain Whistler, Verano Loop resident, said he could not support a commercial business within a residential area. He said the dynamics of Verano Loop should be considered and the increase of traffic is a setup for an unsafe situation.

Duly sworn, Richard Silva, stated he was Mr. Kaiser's neighbor and he fully supported this home occupation license. He offered that police presence is a good thing for the neighborhood and perhaps some of the residents will slow down because of that presence.

Returning to the podium, Dr. Eigner mentioned her sensitivity to the loss of human life and the importance of prevention. She read a letter from Craig Bowen a resident of Verano Drive who opposes the business.

Under oath, Steven Kaiser, applicant of the gunsmith home occupation permit, said he understands the County is obligated by law to approve his license which they did. He noted there were other dealers of firearms in Eldorado and that neighbors are not zoning officials. Mr. Kaiser said his business clearly fits the County's definition of a low-impact home occupation. He followed the regulations and believes his business license was rightfully approved.

In response to Member Katz's question, Mr. Kaiser said he met with Dr. Eigner and discussed the safety measures he would employ; the safe is bolted to cement, there are no advertisements for gun sales and no advertisements will include the home address, a separate business phone line is utilized that has no association with Verano Loop, and he offers a pick up and delivery service to all his clients to further limit traffic.

Mr. Kaiser confirmed that he will not keep loaded firearms on his property. The main purpose of his business is restoration, repair and appraisal of firearms. The sale of firearms is permitted under his ATF gunsmith license but that is not the primary purpose of his business, stated Mr. Kaiser.

That concluded the public input on this item and Chair Gonzales closed the public hearing portion.

Member Martin moved to uphold the Land Use Administrator's decision and deny the appeal. Member Anaya seconded and the motion passed by unanimous [6-0] voice vote.

B. Petitions from the Floor - None were presented.

C. Communications From the Committee

Chair Gonzales was recognized for his service to the County in his capacity as a CDRC member and chair. The Chair wished the members the best of luck.

Holiday wishes were shared.

D. Communications From the Attorney

Ms. Brown wished the members a happy holiday. She thanked Chair Gonzales and said it was honor to work with him.

E. Matters From the Land Use Staff

Ms. Lucero thanked Chair Gonzales for his 11 years of service on the CDRC.

F. Next CDRC Regular Meeting: January 16, 2013

VIII. ADJOURNMENT

Having completed the agenda and with no further business to come before this Committee, Chair Gonzales declared this meeting adjourned at approximately 5:00 p.m.

Approved by:

CDRC

ATTEST TO:

COUNTY CLERK

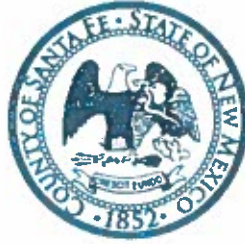
Submitted by:

Karen Farrell, Wordswork

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: January 9, 2014

TO: County Development Review Committee

FROM: Miguel "Mike" Romero, Development Review Specialist Sr. 

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

FILE REF.: CDRC CASE # V 13-5350 Joseph Lujan Variance

ISSUE:

Joseph Lujan, Applicant, Requests A Variance Of Article III, Section 10 (Lot Size Requirements) Of The Land Development Code To Allow Three Dwelling Units On 2.371 Acres.

The Property Is Located At #27262 1-25 East Frontage Rd, In The Chuck Taylor Subdivision, Within Section 4, Township 15 North, Range 8 East (Commission District 5).

Vicinity Map:



NBA-1

SUMMARY:

The Applicant requests a variance of Article III, § 10 (Lot Size Requirements) of the Land Development Code to allow three dwelling units on 2.371 acres. The subject lot was created in 1977, and is recognized as a legal non-conforming lot. There are currently three dwelling units and two accessory structures on the subject property. The Applicant states their residence was constructed shortly after the purchase of the property in 1977, an aerial photograph from 1981 shows only one residence on the property. A 1992, aerial photograph shows that an addition was added to the main residence, a detached garage was constructed for the main residence and a single wide mobile home (second residence) was placed on the property where the Applicant's son lives. None of these structures were permitted by Santa Fe County. A 2001 aerial photograph shows that the Applicant's daughter had already moved her manufactured home (third residence) onto the property without a Development Permit from Santa Fe County. An aerial photograph from 2005, shows that the Applicant's son had constructed an addition to his residence (second residence) and built a detached garage without permits from Santa Fe County.

According to the Applicant, approximately 16 years ago the Applicants daughter moved her manufactured home onto the property due to a divorce and financial hardship. The Applicant along with his son and his daughter all reside in their individual homes on the subject property.

On September 27, 2013, the Applicant applied for a Development Permit for roof mounted solar panels to be placed on his residence. On October 24, 2013, Santa Fe County Code Enforcement conducted an inspection at the Applicants residence pertaining to the Development Permit Application and observed multiple dwelling units and accessory structures on the property. During the inspection Code Enforcement staff reviewed the Application to find that the Applicant only listed one residence on the Development Permit Application. At that time Code Enforcement issued the Applicant a Notice of Violation for Unpermitted Development and Exceeding Density.

In 1991 the Applicant requested a variance (CDRC # V 1991-1) to allow two dwelling units on 2.37 acres. At that time staff recommended recognizing the lot as 2.5 acres so the Applicant could qualify for a Family Transfer. The BCC approved the variance for a Family Transfer and to recognize the lot as 2.5 acres with staff conditions (Refer to BCC Minutes in Exhibit 8). Since that time, the Applicant has not moved forward with the Family Transfer nor has he complied with staff conditions. The Applicant has been informed by staff that they can still move forward with the small lot family transfer. However, the Applicant now states that rather than divide the property, it is their intention to move forward and request a variance to allow three homes on their property.

Article II, § 3 (Variances) of the County Code states: "Where in the case of proposed development, it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted condition or that these conditions would result in inhibiting the achievement of

the purposes of the Code, the applicant may submit a written request for a variance.” This Section goes on to state “In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified.” **The variance criteria does not consider financial or medical reasons as extraordinary hardships**

This Application was submitted on November 8, 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 from Article III, §10 (Lot Size Requirements) of the Land Development Code.

GROWTH MANAGEMENT AREA: El Centro, SDA-2

HYDROLOGIC ZONE: Basin Zone, minimum lot size per Code is 10 acres per dwelling unit. Lot size may be further reduced to 2.5 acres with signed and recorded water restrictions.

FIRE PROTECTION: La Cienega District.

WATER SUPPLY: Domestic Well

LIQUID WASTE: Holding Tank Treatment System, Approved by NMED for three homes.

VARIANCES: Yes

AGENCY REVIEW:	<u>Agency</u> County Fire	<u>Recommendation</u> Approved with Conditions
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STAFF RECOMMENDATION: Denial of a variance of Article III, §10 (Lot Size Requirements) of the Land Development Code.

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

1. Water use shall be restricted to 0.25 acre feet per year per home. A water meter shall be installed for each

residence. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office (As per Article III, § 10.2.2 and Ordinance 2002-13).

2. The Applicant must obtain a development permit from the Building and Development Services Department for all structures on the property (As per Article II, § 2).
3. The placement of additional dwelling units or Division of land is prohibited on the property (As Per Article III, Section 10).
4. 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).
5. All Junk Vehicles, Litter and Debris must be removed from the property (As Per Ordinance 1993-6 and Ordinance 1993-11).

EXHIBITS:

1. Letter of request
2. Article III, §10 (Lot Size Requirements)
3. Article II, § 3 (Variances)
4. Site Photographs
5. Site Plan
6. Aerial of Site and Surrounding Area
7. Review Agency Letter
8. 1991 Staff Report with BCC Minutes

MR. WAYNE DULTON
Santa Fe County
BUILDING & DEVELOPMENT SERVICES
P.O. BOX 276

11-08-13

RE: Request For a 2nd Variance

Dear Sir:

Please consider this letter as a request to apply for a variance on our property and to request relief from the strict letter of the ordinance requirements, and also intended to request consideration of our individual family hardships related to our unique circumstances.

Upon purchasing our property in 1977, it was our intent to ~~help~~ ^{help} our children by doing a family TRUST for each of them, we had two children, who needed, unfortunately we did not proceed before 1981. Due to unforeseen circumstances beyond our control. It became a hardship for my daughter, she was in the process of going through a divorce, having a large family, impending bankruptcy, and nowhere to turn, like my parent we needed to help.

Because of the time restraint and me suffering from "POSTTRAUMATIC STRESS DISORDER," going through the bankruptcy we failed on our part to take the necessary steps to comply with state, county requirements. This was not done purposely, but through lack of oversight. We will furnish you with what we have in our possession. We endeavor to reach common ground with you as to your requirements.



Sincerely,
Mike & Howard Lynn

NBA-5

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

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

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

SECTION 10 - LOT SIZE REQUIREMENTS

10.1 Relationship of Lot Sizes to Water Policies

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



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

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

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

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

BASIN FRINGE ZONE: Same as Basin Zone.

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

MOUNTAIN ZONE: Same as Homestead Zone.

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

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

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

10.2 Calculation of Minimum Lot Size

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

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

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

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

Where:

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

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

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

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

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

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

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

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

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

10.2.2 Calculation of Use

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

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

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

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

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

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

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

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

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

10.2.4 Special Standards for Calculation of Water Availability for Metropolitan Areas

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

a. Standard Values of Water Availability

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

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

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

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

b. Adjustments for Water Conservation

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

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

10.3 Exceptions to Minimum Lot Size Requirements

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

10.3.1 Metropolitan Area - Community Water Systems

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

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

10.3.2 Agricultural Areas

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

10.3.3 Traditional Communities

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

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

10.3.4 Urban Areas

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

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

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

10.4 Density Transfer

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

SECTION 11 - IMPORTING OF WATER

11.1 Location Requirements

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

2.5 Zoning

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

2.6 Subdivisions

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

2.7 Other Requirements

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

SECTION 3 - VARIANCES

3.1 Proposed Development

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

3.2 Variation or Modification

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

3.3 Granting Variances and Modifications

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

3.4 Height Variance in Airport Zones

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



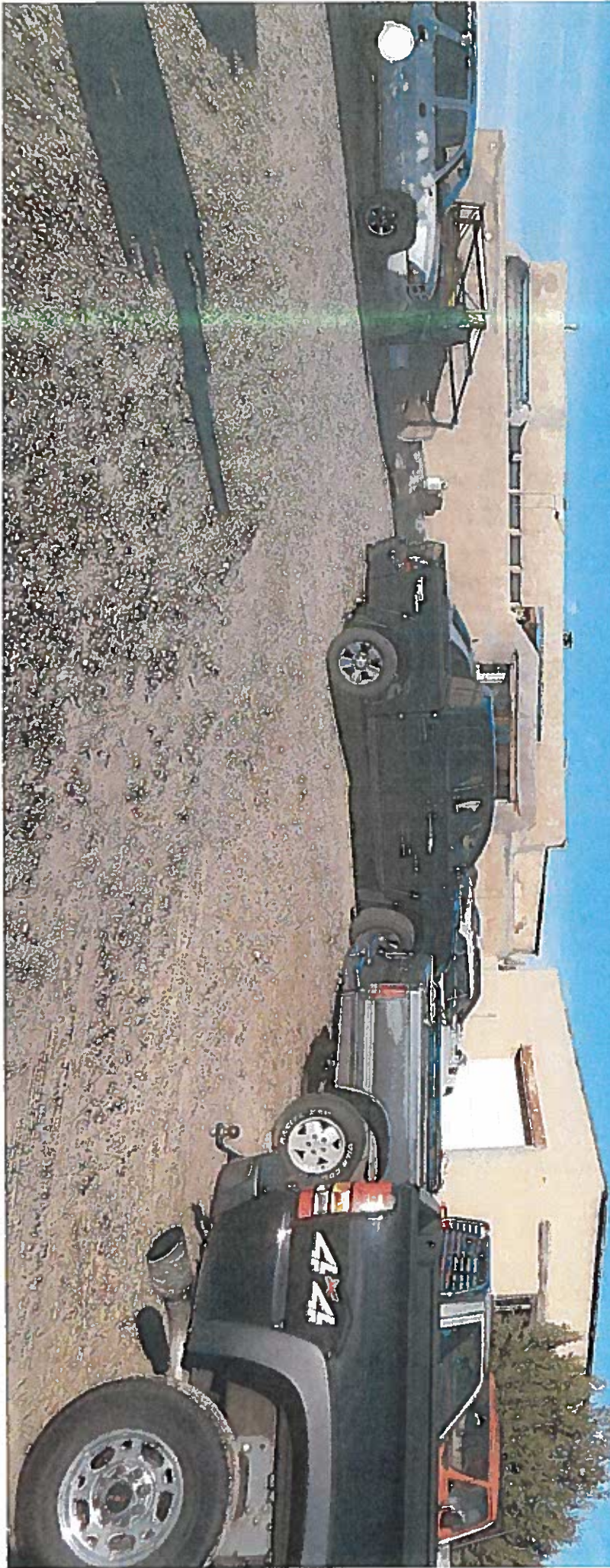


EXHIBIT
4

NBA-13



NBA-14

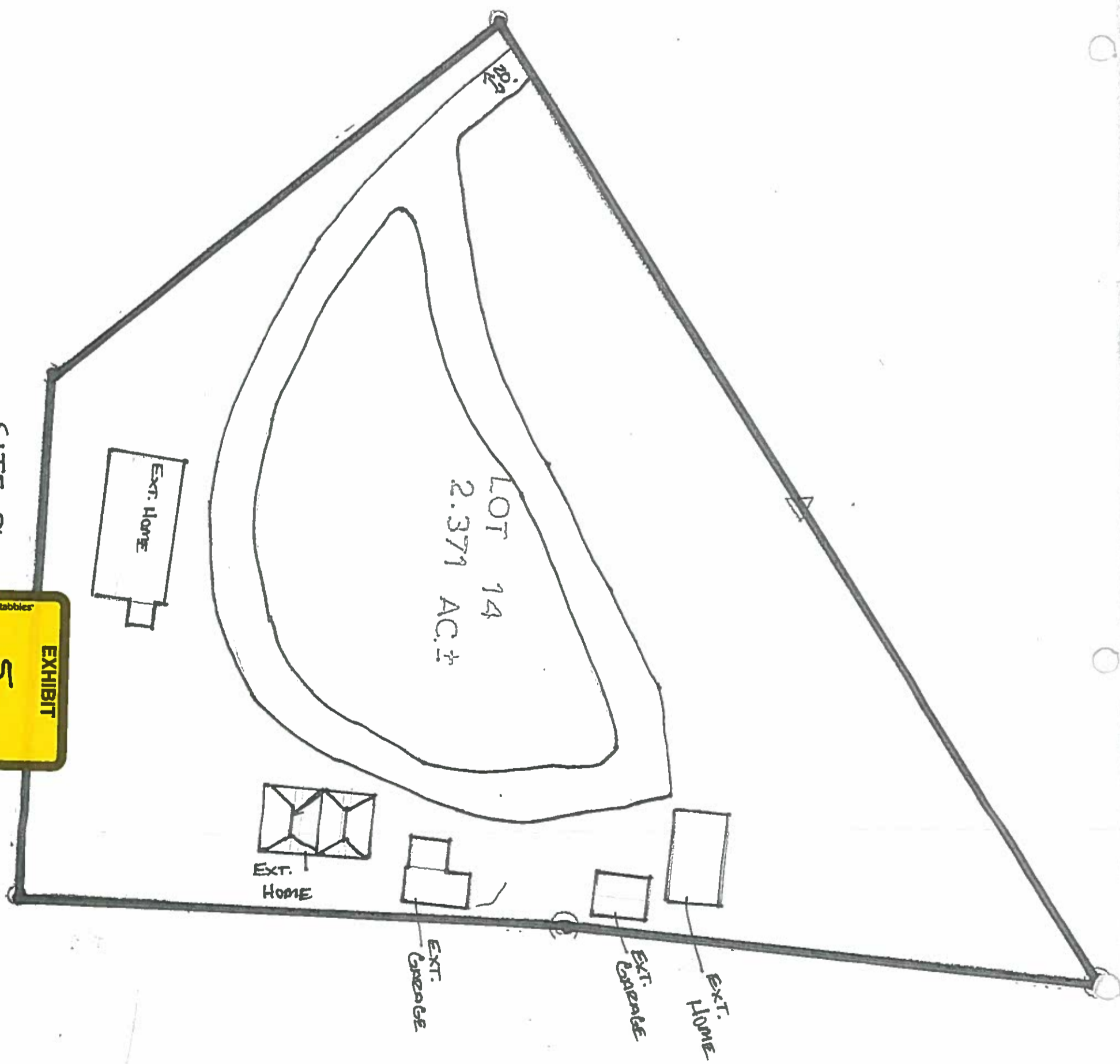


NBA-15

1

10

SITE PLAN

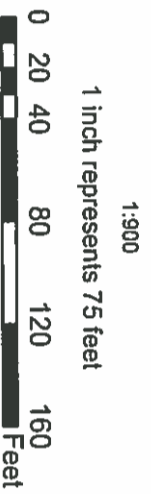


NBA-16



Legend

- ROADS
- DRIVEWAYS
- Parcels
- STRUCTURES



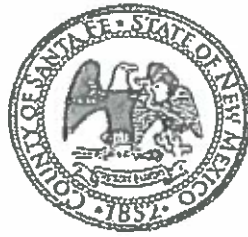
2008 Orthophotography
2 FOOT CONTOURS

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.

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	12/17/2013		
Project Name	Joseph Mike Lujan		
Project Location	27262 I-25 East Frontage Road, Santa Fe, New Mexico 87508		
Description	Variance of Article III section 10 – # of dwelling units	Case Manager	Mike Romero
Applicant Name	Joseph Mike Lujan	County Case #	13-5350
Applicant Address	27262 I-25 East Frontage Road Santa Fe, New Mexico 87508	Fire District	La Cienega
Applicant Phone	505-474-6033		

Review Type: Commercial Residential Sprinklers Hydrant Acceptance
 Master Plan Preliminary Final Inspection Lot Split
 Wildland Variance

Project Status: Approved Approved with Conditions Denial

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:

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.



The existing driveway does not meet the minimum County standards for fire apparatus access roads within this type of proposed development. The plan shows a 20' wide driveway. This driveway 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 turn-around located at the house shall meet Santa Fe County Standards for a fire department turn-around of a 14' wide driving surface with inside turning radius of 28'.

- **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.*

All access roadway identification signs leading to the approved development area(s) shall be in place prior to the required fire hydrant acceptance testing. Said signs shall remain in place in visible and viable working order for the duration of the project to facilitate emergency response for the construction phase and beyond.

- **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.*

There are no slopes the exceed 11%.

- **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 access gates should be operable by means of a key or key switch, which is keyed to the Santa Fe County Emergency Access System (Knox Rapid Entry System). Details and information are available through the Fire Prevention office.

Fire Protection Systems

- **Automatic Fire Protection/Suppression**

This office highly recommends the installation of an automatic fire suppression system as per 1997 Uniform Fire Code, Article 10 Section 1003.2.1 and the Building Code as adopted by the State of New Mexico and/or County of Santa Fe. Required automatic fire suppression systems shall be in accordance with NFPA 13 and 13D Standard for automatic fire suppression systems. It is recommended that the homeowner contact their insurance carrier to find their minimum requirements.

- **Fire Alarm/Notification Systems**

Automatic Fire Protection Alarm systems are highly recommended per 1997 Uniform Fire and Building Codes as adopted by the State of New Mexico and/or the County of Santa Fe. Required Fire Alarm systems shall be in accordance with NFPA 72, National Fire Alarm Code for given type of

systems shall be in accordance with NFPA 72, National Fire Alarm Code for given type of structure and/or occupancy use. Said requirements will be applied as necessary as more project information becomes available to this office during the following approval process.

- **Fire Extinguishers**

Article 10, Section 1002.1 General (1997 UFC) *Portable fire extinguishers shall be installed in occupancies and locations as set forth in this code and as required by the chief. Portable fire extinguishers shall be in accordance with UFC Standard 10-1.*

Portable fire extinguishers are highly recommended to be installed in occupancies and locations as set forth in the 1997 Uniform Fire Code. Portable fire extinguishers shall be in accordance with UFC Standard 10-1.

- **Life Safety**

Fire Protection requirements listed for this development have taken into consideration the hazard factors of potential occupancies as presented in the developer's proposed use list. Each and every individual structure of a private occupancy designation will be reviewed and must meet compliance with the Santa Fe County Fire Code (1997 Uniform Fire Code and applicable NFPA standards) and the 1997 NFPA 101, Life Safety Code, which have been adopted by the State of New Mexico and/or the County of Santa Fe.

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.

The developer shall call for and submit to a final inspection by this office prior to the approval of the Certificate of Occupancy to ensure compliance to the requirements of the Santa Fe County Fire Code (1997 UFC and applicable NFPA standards) and the 1997 NFPA 101, Life Safety Code.

Permits

As required

Final Status

Recommendation for Final Development Plan approval with the above conditions applied.

Renee Nix, Inspector

Renee Nix
Code Enforcement Official

Date

12-17-13

Through: Chief David Sperling

File: DEV\VAR\JosephmikeLujan\121713\LC

Cy: Buster Patty, Fire Marshal
Caleb Mente, Land Use
Applicant
District Chief La Cienega
File

NBA-21

SANTA FE COUNTY MEMORANDUM

11

DATE: APRIL 9, 1991
TO: BOARD OF COUNTY COMMISSIONERS
FROM: COUNTY LAND USE STAFF
SUBJECT: MIKE AND HENRIETTA LUJAN ARE REQUESTING A VARIANCE OF THE COUNTY'S DENSITY REQUIREMENTS IN ORDER TO ALLOW THE PLACEMENT OF TWO (2) DWELLING UNITS (MOBILE HOMES) ON APPROXIMATELY 2.371 ACRES. THE PROPERTY IS LOCATED WITHIN THE CHUCK TAYLOR SUBDIVISION, BLK. 2 LOT 14 AND IS LEGALLY DESCRIBED AS T15N, R8E, SECTION 4, SANTA FE COUNTY, NMPM.

The decision of the CDRC at their regularly scheduled meeting of March 28, 1991 was to recommend that the lot be considered 2.5 acres and a family transfer be allowed.

BACKGROUND: The property as described in this zoning request under the subject matter, is accessible from the east side I-25 frontage road. The property has been owned by Mr. & Mrs. Lujan since 1977.

The proponents are requesting a variance of the County's density requirements to allow the placement of a second mobile home on the 2.371 acre lot. The property lies within the basin hydrologic zone where the minimum allowable lot size is 2.5 acres with water restrictions. Lot sizes below 2.5 acres to a minimum of 1.25 acres are allowed through the family transfer provisions.

Because the described lot size is below 2.5 acres by approximately 0.13 of an acre, or 5,662.8 sq. ft., it left the applicant with no other alternative but to seek a variance in order to establish two (2) home sites on their property. They feel it is only a minimal easing of the Code requirements and that similar densities have already been established within the surrounding area. If approved it would afford them the opportunity to provide their daughter a place to live.



EXHIBIT
8

NBA-22

BCC
"Lujan Request"
April 9, 1991
Page two

Water source available is an on site well, and liquid waste disposal will be handled by an EID approved septic system.

There is enough acreage to handle the additional discharge from a second dwelling unit if approved.

Pursuant to the variance criteria of the Code, the Committee members should determine if the requested variance is justifiable under the criteria as outlined.

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. 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 CDRC and 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 modification, the CDRC may require such conditions as will, in its judgement, secure substantially the objectives of the requirements so varied or modified.

RECOMMENDATION: In light of the facts as presented, and that the request could be considered a minimal easing of the Code requirements. Staff is recommending approval of this request with the following conditions:

NBA-23

BCC
"Lujan Request"
April 9, 1991
Page three

1. Mike and Henrietta Lujan can only divide the property for family transfer purposes or through the approval of a positive geohydrology report.
2. Both mobile homes will need to be properly skirted and anchored as per state mobile housing guidelines.
3. Installation and location of the mobile homes must meet all applicable state and county ordinance standards.
4. The variance will be for a second dwelling unit only, changes deviating from this approval will not be allowed unless approved by the CDRC/BCC.
5. A county development permit must be obtained from the Land Use Department prior to placement of the second dwelling unit.
6. The mobile home will need to meet fire separation requirements as required by the State and County Fire Marshals.
7. Any improvements or modifications made to the existing septic system, or the installation of a new system, must meet all applicable CID/EID requirements prior to issuance of a mobile home permit. An approved septic tank permit must be submitted, prior to issuance of a mobile home permit.
8. Water restrictive covenants be imposed for each dwelling unit/lots if created, not to exceed .25 acre feet of water usage per year per lot and installation of meters to monitor water usage. Annual reports must be provided if determined necessary by the Land Use Department.
9. All inoperable vehicles and debris must be removed from the property within a reasonable period of time not to exceed 3 months from the date of approval.
10. The second dwelling unit (mobile home) should be cited on the property so as not to adversely impact the view of adjacent property owners.

11. That a plat be prepared by a ^{certified} Surveyor for the family transfer lot. NBA-24

COMMISSIONER ANAYA: I see no problem with this so I move for approval of transfer of ownership, liquor license number --

CHAIRMAN CHAVEZ: Before we get into a motion, can I just ask -- see if there's anybody that's in favor or against this? It doesn't seem like there's any but just -- at this time, is there anybody in the audience that would like to speak in favor of this request? Nobody? Is there anybody in the audience that would like to speak against it? Okay, Commissioner Anaya.

COMMISSIONER ANAYA: Okay, thank you, Mr. Chairman. I move for the transfer of oil license.

COMMISSIONER GRILL: Oil?

COMMISSIONER RODRIGUEZ: Well at least, Mr. Chairman, at least he didn't call that the uniform commercial code; it was the uniform fire code. That was really something.

CHAIRMAN CHAVEZ: I believe we have a motion. Do we have a second?

COMMISSIONER PLATTS: I second it.

CHAIRMAN CHAVEZ: It has been moved and seconded that we go ahead and approve the request of transfer of liquor license number 4016. Is there any further discussion? If there's no further discussion all those in favor signify by saying "aye." All those opposed say "no." Motion carries and the liquor license number 4016 is approved as presented.

11. d. CDRC Case No. V 91-1. Mike and Henrietta Lujan. Requesting a variance of the County's density requirements in order to allow the placement of two dwelling units (mobile homes) on approximately 2.371 acres. The property is located within the Chuck Taylor subdivision, Blk. 2, Lot 14, and is legally described as T15N, R8E, Section 4, Santa Fe County, NMFM.
[Exhibit 3]

MR. CHAVEZ: Mr. Chairman, members of the Commission. I'll deviate a little bit from the report here. The decision of the CDRC at the regularly scheduled meeting of March 20, 1991 was to recommend that the lot, that this lot be considered at 2.5 acre parcel for the purposes of family transfer. The request by Mr. and Mrs. Lujan was -- they originally purchased this piece of property. They were under the impression it was a 2.5 acre parcel. Once it was surveyed, it turned out that the parcel was 2.3 and it was short approximately 5,662 square feet, in order to -- for a combined total or in order to make it a combined total of 2.5 acres.

NBA-25

Staff felt now what the Lujans wanted to do was to either have approval to park a second unit on there. They are in an area where two and a half acres is the minimum. Now under a family transfer, if the lot was considered two and a half acres they would be allowed to family transfer half of that creating two one and a quarter acre lots. The CDRC and staff -- well, staff did recommend that we felt it was a minimal variance being that it was only short 5,000 square feet. The CDRC agreed with staff's recommendation and instead of allowing the applicant to park two mobile homes, their decision was to consider this a 2.5 acre or recognize it as a 2.5 acre parcel, therefore, giving the applicant the option of being able to do a family transfer and splitting this lot in half for the purpose of a family transfer. The conditions that staff recommended and that were imposed by the CDRC is:

1. Mike and Henrietta Lujan can only divide the property for family transfer purposes or through the approval of a positive hydrology report. In this case if it's approved the family transfer -- if the CDRC decision is upheld for recommendation.
2. Both mobile homes will need to be properly skirted and anchored as per state mobile housing guidelines.
3. Installation and location of the mobile home must meet all applicable state and county ordinance standards.
4. The variance will be for second dwelling unit only. Changes deviating from this approval will not be allowed unless approved by the CDRC or BCC.
5. County development permit must be obtained from the Land Use Department prior to placement of the second dwelling unit.
6. The mobile home will need to meet all fire separation requirements as required by the state or county fire marshal.
7. Any improvements or modifications made to the existing septic system or the installation of a new system must meet all applicable CID and EID requirements prior to issuance of a mobile home permit. An approved septic tank permit must be submitted prior to issuance of a mobile home permit.
8. Water restrictive covenants will be imposed for each dwelling unit lot if created, not to exceed 1/4 acre foot of water per year per lot and installation of a meter to monitor water usage. Annual reports must be provided if determined necessary by the Land Use Department.
9. All inoperable vehicles and debris must be removed from the property within a reasonable period of time not to exceed three months from the date of approval. There are some inoperable vehicles on the property. The applicant has agreed to remove them.



NBA-26

726357

10. The second dwelling unit should be sited on the property so as not to adversely impact the view of adjacent property owners.

The 11th condition that we would like to place should this request be recognized as a 2.5 acre lot would be that a survey plat be prepared and approved by the Land Use office prior to recording for the purposes of family transfer. Thank you.

CHAIRMAN CHAVEZ: Thank you, Gil. Is there any questions from staff?

COMMISSIONER RODRIGUEZ: I have no questions.

CHAIRMAN CHAVEZ: No questions. Is either Mr. Mike or Henrietta Lujan in the audience? Could we get you to come up to the podium

[Having been duly sworn, Mrs. Henrietta Lujan testified as follows]

MRS. HENRIETTA LUJAN: My name is Henrietta Lujan.

CHAIRMAN CHAVEZ: Are you familiar with the 11 conditions that were imposed by staff?

MRS. LUJAN: We received a letter. And I think there were only 10 when we received it. Let me make sure. Our intent from the very beginning was just to provide a place for our daughter to live. So we will meet any conditions that the county wants us to meet. I was -- when I attended the review committee the chairman was the one that pointed out that we ask the county that we can divide the property in case my daughter wanted to sell her half or whatever, and we didn't know that at the time, but it was him that recommended that and I asked that they go ahead with that and the county agreed with that. So we'll do whatever they tell us to do.

CHAIRMAN CHAVEZ: Good. Is there any questions of Mrs. Lujan?

COMMISSIONER GRILL: Mr. Chairman, I'm curious. Henrietta, you haven't gotten any opposition from your neighbors for placing two mobile homes?

MRS. LUJAN: No, ma'am. Everybody has them out there. In fact, there is an adjacent property owner that has less acreage than us that has two homes on, you know, less land than what we're asking for.

COMMISSIONER GRILL: Mobile homes?

MRS. LUJAN: Yes. I just need to clarify something on number 11, Gil. Does that mean that before you get a mobile home permit to do whatever we need to do. We need to do that --

MR. CHAVEZ: [Speaker not at microphone] was to either recognize the lot as two and a half acre parcel for the purpose of her being able to do a family transfer. That would allow her to be able to split into one and a quarter, two one and a quarter acre lots for a family transfer, allowing her one unit on each lot. Now if that isn't done, then what you are

granting her is a variance to be allowed to exceed the density requirements because she is allowed one unit on two and a half acres. Now the decision of the CDRC was to recognize it as a two and a half acre parcel for the purpose of a family transfer in which case the variance is no longer valid and the CDRC felt they wanted to get away from the variance in not allowing two mobile homes on two and a half acres, but instead recognize it as a two and a half acre lot and in that case she could do the family transfer and both mobile homes would be allowed without a variance.

CHAIRMAN CHAVEZ: Gil, in that same light then, how did you come up with the 2.371 acre, if that's the case? Was that --

MR. CHAVEZ: Well, what we would do -- the lots -- what you're doing, you would recognize it as a two and a half acre lot. In actuality it's 2.3 so half of that would be what would constitute the two lots. I mean there's no way she can, unless she bought the 5,000 acres to make it two and a half, she just doesn't have it. So what they're doing is recognizing this as a two and a half acre parcel or recognizing it as being the minimum lot size in order to allow her to do the family transfer. But in actuality she's got 2.3 acres, just a little above 2.3 acres. So when she splits it, you're going to be looking at 1.1 acres instead of the one and a quarter.

CHAIRMAN CHAVEZ: Okay, does that answer your question, Mrs. Lujan? Any other questions?

COMMISSIONER RODRIGUEZ: I have none.

CHAIRMAN CHAVEZ: If there is no other questions, thank you. At this time what is the pleasure of the Commission? Oh, I'm sorry. Is there anybody in the audience that would like to speak in favor of this request? Is there anybody in the audience that would like to speak against it? There is none, so at this time what is the pleasure of the Commission?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN CHAVEZ: Commissioner Anaya.

COMMISSIONER ANAYA: I move for approval of this proposal subject to the conditions imposed by staff and the one amended condition, number 11.

CHAIRMAN CHAVEZ: We have a motion. Do we have a second?

COMMISSIONER GRILL: Second.

CHAIRMAN CHAVEZ: It has been moved and seconded that we go ahead and approve this request with the 11 conditions that were imposed by staff. Is there any further discussion? If there's no further discussion all those in favor signify by saying "aye." All those opposed say "no." Motion carries and your request is approved.

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: January 16, 2014

TO: County Development Review Committee

FROM: John Lovato, Development Review Specialist Senior

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

FILE REF.: CDRC CASE # V 13-5340 Vincent Salazar Variance

ISSUE:

Vincent Salazar, Applicant, requests a variance of Ordinance 2002-9 (La Cienega /La Cieneguilla Traditional Community Planning Area and La Cienega Traditional Zoning District), Section 6.4.3 to allow two dwelling units on 1.00 acre.

The property is located at 73 Camino Torcido Loop, Within Section 17 & 20, Township 16 North, Range 8 East, (Commission District 3).

Vicinity Map:



Site Location

NBB-1

SUMMARY:

The subject lot was created on January 8, 1968 by subdivision, and there is currently a residence and a garage on the property. The garage was permitted in 1999 and is being converted into a dwelling unit. On August 16, 2013 Building and Development services received a complaint regarding unpermitted development. On August 19, 2013 code enforcement conducted an inspection on the property and issued a Notice of Violation for exceeding density.

The Applicant states, his son is attending Santa Fe Community College pursuing an education in nursing. The Applicant further states, he has another son and his family residing in his house which interrupts with his sons education and study time. The Applicant also states, he cannot afford to pay for housing for his son so that he can continue his education and concentrate on achieving his goal of graduating.

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 December 6, 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 2002-9 Section 6.4.3 to allow two dwelling units on 1.00 acre.

GROWTH MANAGEMENT AREA: El Centro, SDA-2

HYDROLOGIC ZONE: Basin Fringe Zone, minimum lot size per Code is 50 acres per dwelling unit. Lot size can be reduced to 12.5 acres per dwelling unit with proof of 100 year water supply through a geohydrologic reconnaissance report and application of water use covenants.

FIRE PROTECTION: La Cienega Fire District.

WATER SUPPLY: Shared Domestic Well.

NBB-2

LIQUID WASTE: Conventional Septic System. (Pending approval from New Mexico Environment Department).

VARIANCES: Yes

AGENCY REVIEW:	<u>Agency</u>	<u>Recommendation</u>
	County Fire	None

STAFF RECOMMENDATION: Denial of a Variance of Ordinance 2002-9, Section 6.4.3 to a allow 2 dwelling Units on 1.00 Acre.

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

1. Water use shall be restricted to 0.25 acre feet per year per home. A water meter shall be installed for each residence. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office (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 additional dwelling unit. (As per Article II, § 2).
3. The Applicant shall provide an updated liquid waste permit from the New Mexico Environment Department with the Development Permit Application (As per Article III, § 2.4.1a.1 (a) (iv)).
4. The placement of additional dwelling units or Division of land is prohibited on the property. (As per Ordinance 2002-9, § 6.4.3).
5. 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).
6. The Applicant shall Comply with all conditions of approval within 90 days.

EXHIBITS:

1. Letter of Request
2. Ordinance 2002-9 § 6.4.3
3. Article II, § 3 (Variances)
4. Site Photographs
5. Site Plan
6. Aerial of Site and Surrounding Area

To whom it may concern;

November 11, 2013

I am requesting a variance, So my son can continue his education. My son is enrolled in the SFCC where he is working on a degree for nursing. He is hoping to get into the nursing program within the next two semesters. At this point he may not have time to hold a full time job, due to the time that he has to attend school, do homework, and start working on clinicals at the area hospital, or a hospital in another city. I currently have one of my other sons, his wife, and their three children living in my household, so for him to attempt to concentrate and do the amount of homework that he needs to do is almost impossible.

At this time I cannot afford to help my son pay for his education, and pay for a residence. I do have the structure in place, to provide my son the opportunity to have his own space to be able to study and be comfortable while doing this. My son won't have to worry or stress about paying rent or any type of utilities. He will be able to concentrate fully on his schooling to start off his career.

Thank you for your consideration,

Vincent Salazar

73 Camino torcido Loop

Santa Fe N.M. 87507



NBB-4

1 plan approval where such approval is required, at the time of adoption of this Ordinance, shall
2 comply with this ordinance. This Ordinance and standards may be amended from time to time.

3
4 **6.4 Zoning Density:**

5 **6.4.1 Traditional Community Zoning District:**

6 Maximum density is three quarters of an acre per one dwelling unit (.75 acre). Density
7 adjustments must follow requirements as outlined in Article III, Section 10 and Article
8 VII, Section 6 of the Code, as amended, along with all requirements outlined in this
9 ordinance. The maximum density shall not be increased even when community water and
10 sewer systems are provided except where density transfer is used to protect sensitive
11 lands or preserve community assets as described in Section 6.6 and gross density is
12 maintained. Note: the Traditional Community Zoning District is located within the
13 Traditional Historic Community boundary but the .75 acre zoning density applies only in
14 the Traditional Community Zoning District. See attached map b.), *La Cienega*
15 *Traditional Community Zoning District.*

16 **6.4.2 Basin Zone:**

17 Maximum density in the Basin Zone shall be ten acres per one dwelling unit (10 acres).
18 With proof of 100 year water supply through a geohydrologic reconnaissance report, and
19 adoption of water use covenants (See Attachment 1), the maximum density may be
20 increased to one dwelling unit per 2.5 acres. Density adjustments above one dwelling unit
21 per 10 acres must follow requirements as outlined in Article III, Section 10 and Article
22 VII, Section 6 of the Code, as amended, along with all requirements outlined in this
23 ordinance. The maximum density shall not be increased even when community water and
24 sewer systems are provided except where density transfer is used to protect sensitive
25 lands or preserve community assets as described in Section 6.6 and gross density is
26 maintained.

27 **6.4.3 Basin Fringe Zone:**

28 Maximum density in the Basin Fringe Zone shall be fifty acres per one dwelling unit (50
29 acres). With proof of 100 year water supply through a geohydrologic reconnaissance
30 report, and application of water use covenants (See Attachment 1), the maximum density
31 may be increased to one dwelling unit per 12.5 acres. If an adequate 100 year supply of
32 water, and no impairment to neighboring wells, is proven by an on-site geohydrological
33 well test, land may be further divided to a maximum of 2.5 acres per dwelling unit.
34 Density adjustments above one dwelling unit per 50 acres must follow requirements as
35 outlined in Article III, Section 10 and Article VII, Section 6 of the Code, as amended,
36 along with all requirements outlined in this ordinance. The maximum density shall not be
37 increased even when community water and sewer systems are provided except where
38 density transfer is used to protect sensitive lands or preserve community assets as
39 described in Section 6.6 and gross density is maintained.

40 **6.4.4 Homestead Zone:**

41 Maximum density in the Homestead Zone shall be one hundred and sixty acres per one
42 dwelling unit (160 acres). With proof of 100 year water supply through a geohydrologic
43 reconnaissance report, and application of water use covenants (See Attachment 1), the
44 maximum density may be increased to one dwelling unit per 40 acres. If an adequate 100
45 year supply of water, and no impairment to neighboring wells, is proven by an on-site
46 geohydrological well test, land may be further divided to a minimum of 2.5 acres per



NBB-S

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 of 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

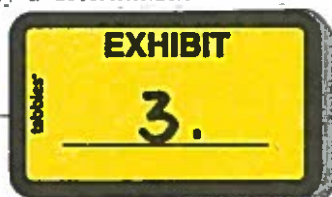




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NBB-8

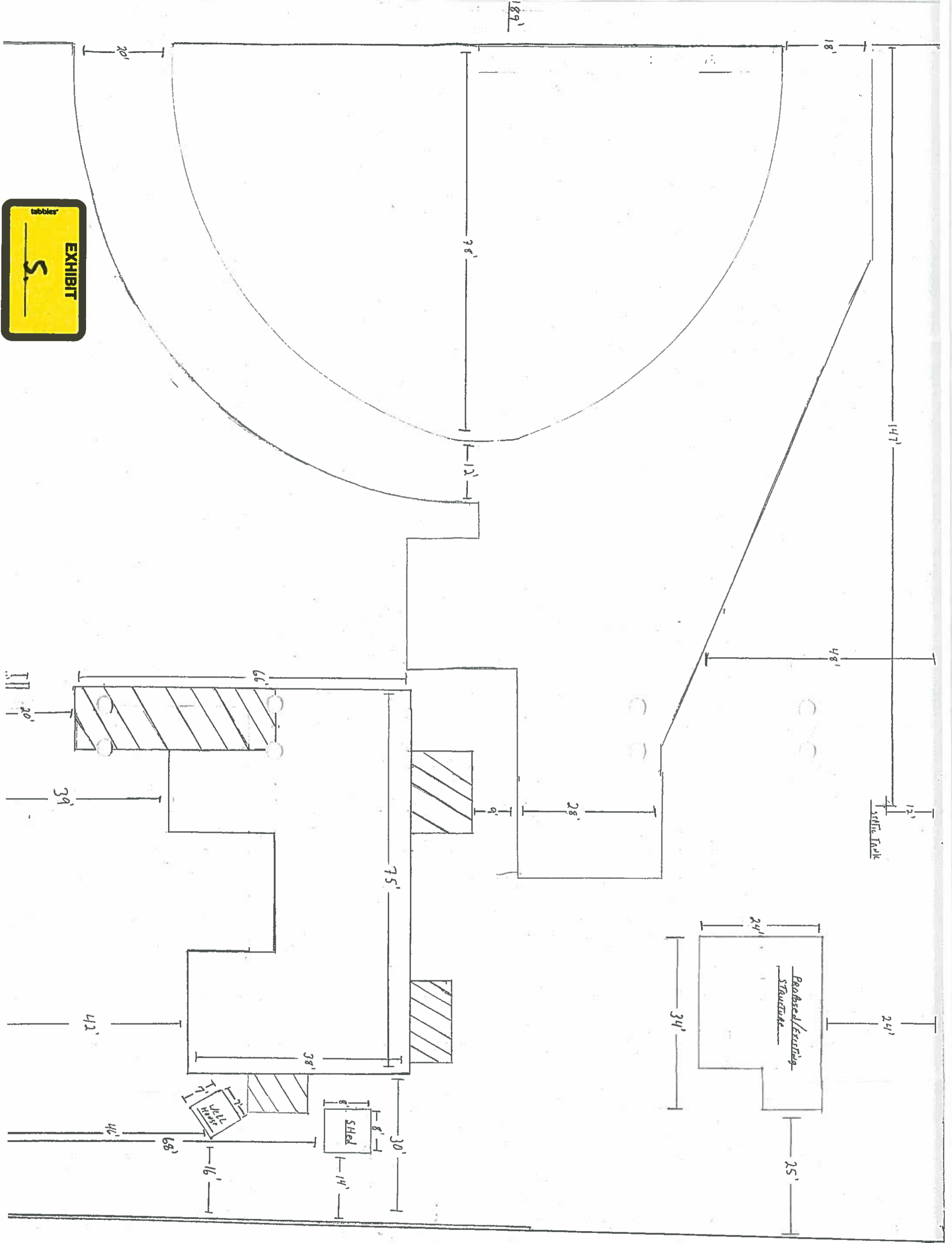


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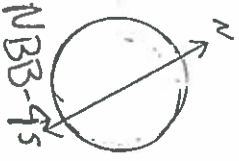
189,34

LEGEND

WALL

Covered Patio

SCALE
 1" = 1'





Legend

-  ROADS
-  DRIVEWAYS
-  Parcels



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2 FOOT CONTOURS

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Proposed unit.

SUMMARY:

The Applicants intend to divide one 2.54 acre lot into two 1.27 acre lots, one 2.50 acre lot into two 1.28 acre lots, and one 2.56 acre lot into two 1.28 acre lots. Louie Rael Sr. and Mary Lou Rael, owned the subject property for over forty years. In 2010, a Family Transfer Land Division was approved (4 lots) in which then they transferred parcels to their daughters Valarie Rael and Tammy Rael and son Louie Real Jr, and also retained a parcel for Mary Lou Rael (wife). The Applicants now wish to divide these parcels in order to give property to their children and grandchild.

Section 6.14.3 of Ordinance No. 2002-9 states “Any Applicant for a Family Transfer must demonstrate a minimum of five (5) years direct ownership of the lot(s) since the last Land Division(s) or sale or Transfer of the property”. The 2.5-acre lots which the Applicants intend to divide and transfer to family members have been in the Family Proper since 2010. However, they have not been held by the Applicants in their divided state for a five year period. The lots are of sufficient size to allow for their division into lots of at least 1.25 acres through the Small Lot Family Transfer Land Division process with signed and recorded water restrictions.

This Application was submitted on December 6, 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 an Exemption to the Five Year Holding between Family Transfer Applications.

GROWTH MANAGEMENT AREA: El Centro, 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 via Family Transfer and with signed and recorded water restrictions. Lot size can be further reduced to 1.25 acres per dwelling via Small Lot Family Transfer.

FIRE PROTECTION: La Cienega.

WATER SUPPLY: Domestic Well.

LIQUID WASTE: Conventional Septic System.

VARIANCES: No

AGENCY REVIEW:	<u>Agency</u>	<u>Recommendation</u>
	County Fire	None

NBC-2

STAFF RECOMMENDATION: Denial of the Exemption for Five Year Holding Between Family Transfer Applications.

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 (Article III, § 2.4.2).
3. 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. Ordinance 2002-9 § 6.14.3& 6.14.4
3. Site Photographs
4. Existing Plat
5. Proposed Plat
6. Aerial of Site and Surrounding Area

December 6th 2013

County Development Review Committee
Santa County
Land Use Division

Dear Staff and Committee Members:

On behalf of Louie Andrew Rael (Louie Senior) Louie Rael Jr, and Lori Rael (Tracts 6H,6J and 6K owners), I am requesting an exemption (section 6.14.4, Santa Fe County Ordinance No.2002-9) to the time of ownership element (section 6.14.3, Santa Fe County Ordinance No.200-9) to avoid unnecessary hardship for the Rael family as stated above. Louie senior has been paying property taxes on this vacant land since the transfer into his name by his father on April 8th, 1974 (quitclaim deed bk.316,pg.454) at which time his father also deeded the north and south adjoining parcels to Louie's brothers Jerry and Robert. Louie senior and his wife Mary Lou Rael (warranty deed #1535990) have been working to pass the property on to their children (Family Transfer Land Division plat bk.722, pg.003) and grandchildren (proposed Family Transfer Land Division). Louie senior is the principal listed on the county tax records and has been the acting as patriarch of his family for this process but due to his advancing age mid 80's, poor health and now limited income wishes to complete this final transaction to insure his families future. The Rael family has owned this property for over 40 years and Louie's brothers have split and family transferred the properties on the north and south of the subject land (plat bk.135, pg.028, bk.339, pg.20, bk.374, pg.26) and this request matches the character of the area and easily shows the Rael's have a proven record of longtime ownership in this area.

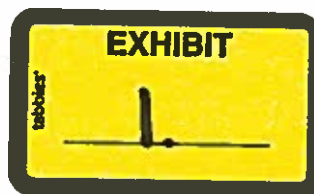
Rick Chatroop NMPLS#11011 on behalf of Louie, Louie Jr. & Lori Rael

Attached please find:

- "Small Lot Family Transfer Land Division for Louie Rael, Louie Rael Jr. & Lori Rael"
- Owner's deeds
- Proof of taxes paid
- Recorded survey plat(proof of legal lot)
- Development application
- Vicinity map
- address confirmations
- additional deeds and plats referenced above

Thank you for your consideration.

Richard A. Chatroop
N.M.P.L.S. #11011
(505) 470-0037



NBC-4

1 6.14.2 Family Transfer Densities:

2 The maximum densities achieved by family transfer shall not be adjusted below those
3 outlined in the Article II, Section 4 of the Code, as amended.

4 → 6.14.3 Five Year Holding Between Family Transfer Applications:

5 Any applicant for a family transfer or small lot family transfer must demonstrate a
6 minimum of five (5) years direct ownership of the lot(s) since the last land division(s) or
7 sale or transfer of the property.

8 → 6.14.4 Exemption for Five Year Holding Between Family Transfer Applications:

9 An exemption to the five-year holding period may be applied for and must clearly state
10 how the additional family transfer lot division is needed in order to avoid an unnecessary
11 hardship, that the request is a minimal easing of the Ordinance requirements, making
12 possible the reasonable use of the land and that it will have no adverse impact to
13 neighboring properties, the community or the environment. Such requests for exemption
14 must be approved by the La Cienega and La Cieneguilla Development Review
15 Committee.

16 6.14.5 Review of Family Transfer Applications:

17 All family transfer applications shall be administratively reviewed by the Land Use
18 Administrator. A summary of all applications shall be forwarded by fax or email to the
19 La Cienega and La Cieneguilla Development Review Committee (LCDRC) for review.
20 LCDRC members shall have five (5) working days to review applications; no response
21 from any LCDRC members shall constitute concurrence of the administrative decision.
22 Applications may be reviewed by the LCDRC if a quorum of LCDRC members request,
23 in writing, that the application be reviewed by the LCDRC. Such requests must clearly
24 state how the application does not meet Code requirements for the family transfer under
25 Article III, Section 2.4.2. Such cases shall be placed on the agenda of the LCDRC's next
26 available meeting date. If a quorum of the LCDRC does not request review of the case,
27 the Land Use Administrator will authorize the transfer application. Family transfer
28 applications shall demonstrate that the parcel to be divided/transferred is suitable for
29 subdivision, and follow County Land Development Code noticing requirements, and
30 persons who write a letter of inquiry or comment regarding a Family Transfer application
31 will be sent a letter stating the administrative decision no later than one day following the
32 decision.

33 6.14.6 Notice of Family Transfer Applications:

34 All applications for family transfer must follow County Code requirements and notice of
35 the application shall be posted at Community notice boards identified by the Land Use
36 Department.

37
38 6.15 Water Use and Metering:

39 6.15.1 Commercial and Residential Water Meters:

40 All new wells and buildings using groundwater drawn from wells located within the
41 Planning Area as a partial or total water supply must install a water meter on their wells.
42 All new development using shared wells or community water systems must install a
43 water meter on every dwelling unit or primary structure/intake that uses the well water.

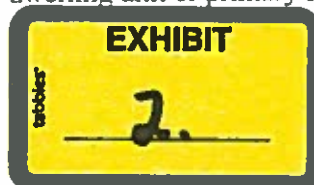
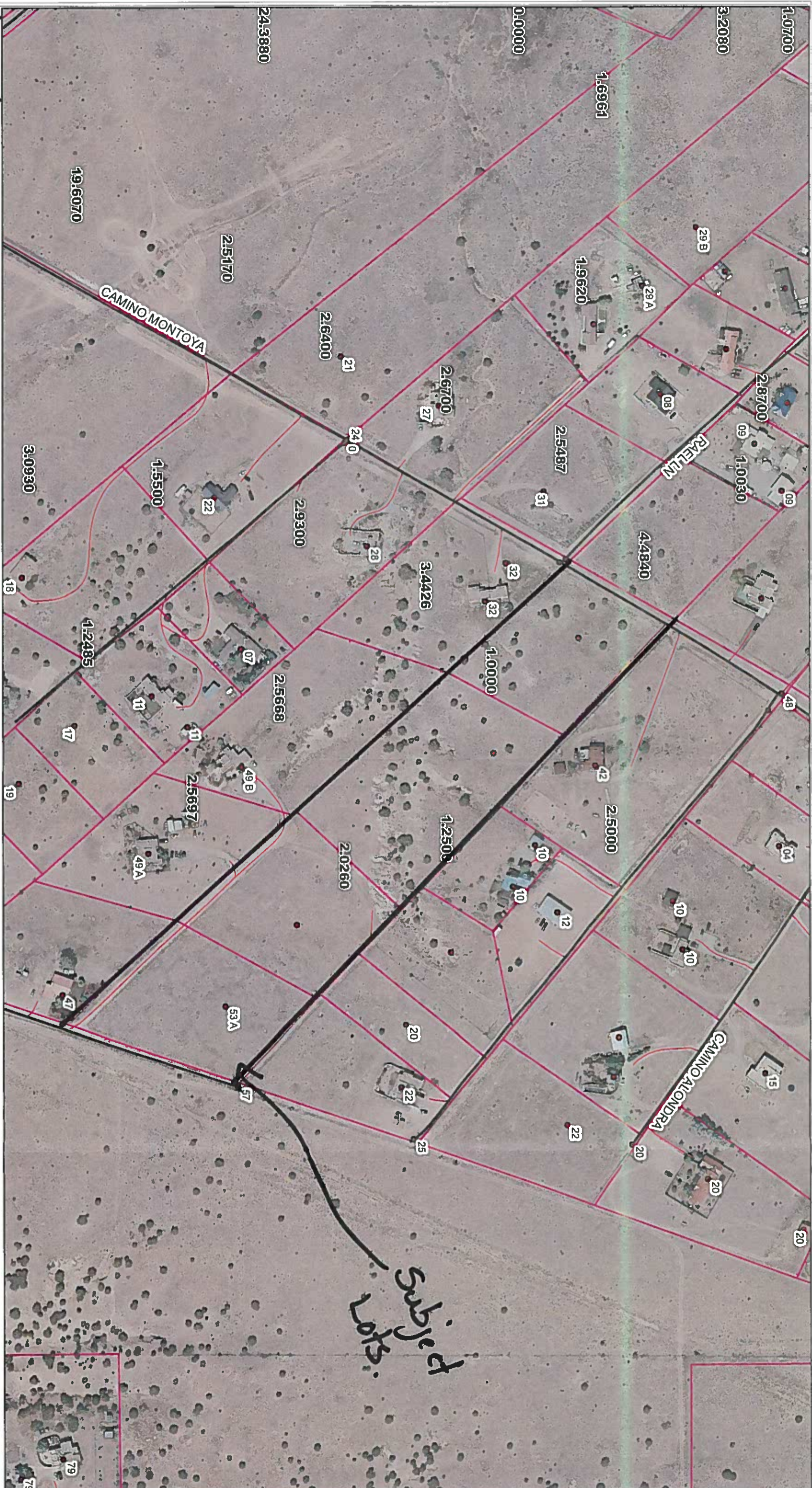




EXHIBIT
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NBC-6



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-  ROADS
-  DRIVEWAYS
-  Parcels

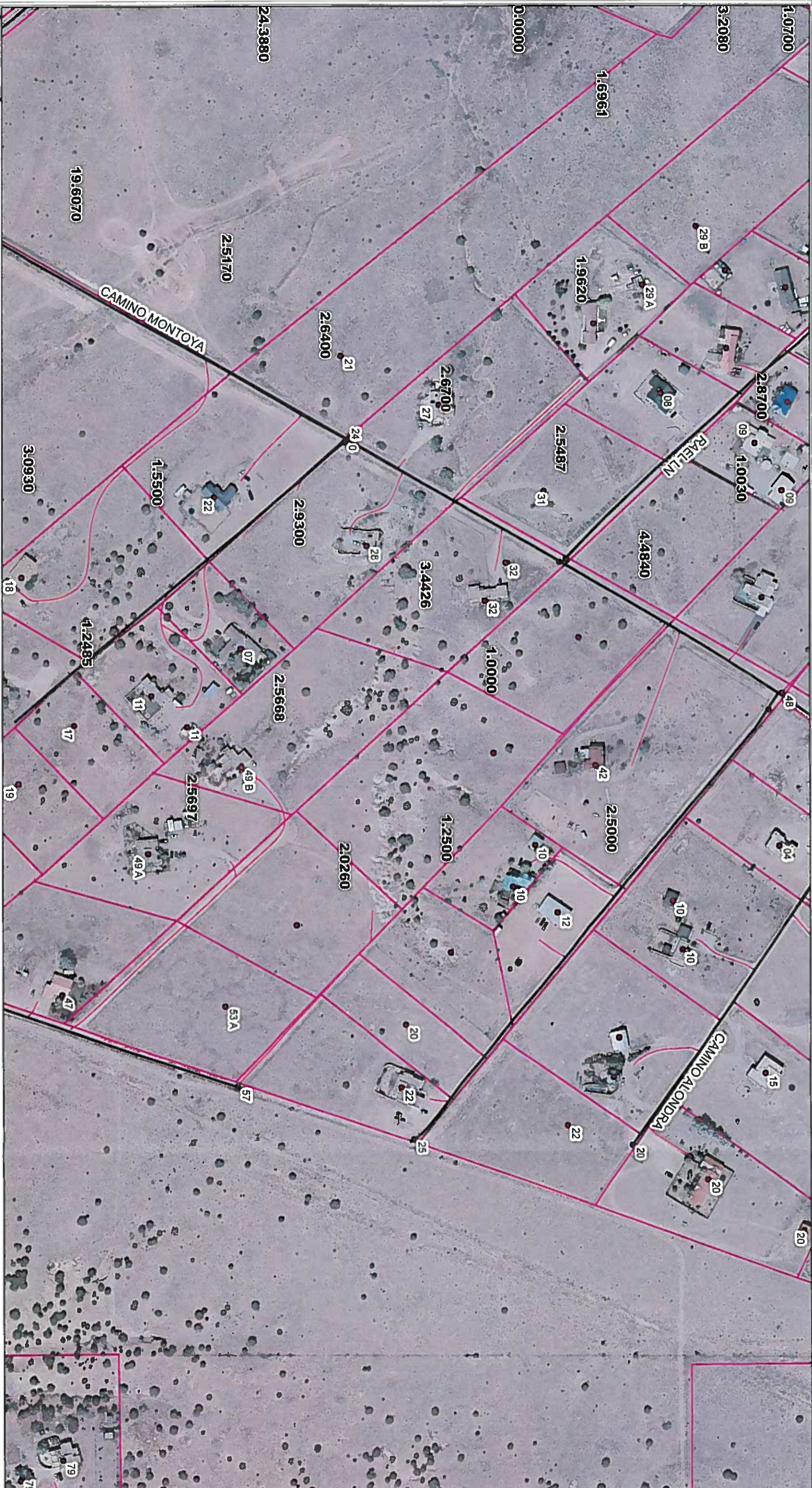


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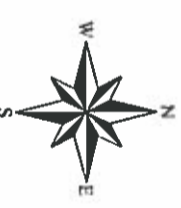
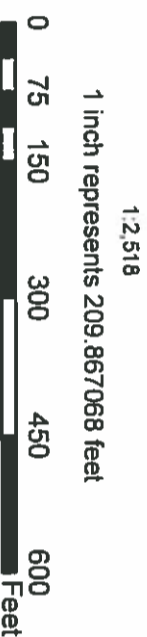


*Subject
Lots*



Legend

-  ROADS
-  DRIVEWAYS
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