

Henry P. Roybal
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: April 16, 2015

TO: County Development Review Committee

FROM: John M. Salazar, Development Review Specialist Senior *JMS*

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

FILE REF.: CDRC CASE # V 14-5130 Juan Gonzalez Variance

ISSUE:

Juan Gonzalez, Applicant, requests a variance of Article III, § 10 (Lot Size Requirements) of the Land Development Code to allow two dwelling units on 10.07 acres.

The property is located at 59 B South Fork, within Section 31, Township 15 North, Range 9 East, (Commission District 5).

Vicinity Map:



SUMMARY:

The subject lot was created in 1998 through a lot line adjustment and is recognized as a legal lot of record. There is currently a residence and a barn on the property.

The Applicant states the additional residence is needed in order to help family members who have fallen on hard economic times. The Applicant also mentions that he was going to wait until the Sustainable Land Development Code was adopted in order to place an accessory dwelling unit on the property however, with the delays that have taken place for its adoption; he can no longer wait and thus, is requesting a variance. The Applicant is proposing to convert the existing barn on his property into a dwelling unit. This would create two units which does not meet minimum lot size requirements set forth in Article III, § 10 (Lot Size Requirements) of the Land Development Code. The lot is already smaller than the Code requires for a single dwelling unit.

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

The owners of the Property, Juan and Lucille Gonzalez, acquired the Property with the house and barn already on site, by warranty deed recorded in book # 1566, page #662-663 in the Santa Fe County Clerk’s records dated March 17, 1998. (Exhibit 5)

Notice requirements were met as per Article II § 2.4.2, of the Land Development Code. In advance of a hearing on the Application, the Applicant provided a certification of posting of notice of the hearing, confirming that public notice posting regarding the Application was made for twenty one days on the property, beginning on March 26, 2015. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on March 26, 2015, as evidence by a copy of that legal notice contained in the record. Receipts for certified mailing of notices of the hearing were also contained in the record for all adjacent property owners. (Exhibit 6)

This Application was submitted on February 13, 2015.

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 Article III, §10 (Lot Size Requirements) of the Land Development Code to allow two dwelling units on 10.07 acres.

GROWTH MANAGEMENT AREA: El Centro, SDA-2

HYDROLOGIC ZONE: Basin Fringe Hydrologic Zone. The Minimum lot size per Code is 50 acres per dwelling unit. Lot size can be reduced to 12.5 acres per dwelling unit with signed and recorded water restrictions.

FIRE PROTECTION: Turquoise Trail Fire District.

WATER SUPPLY: Domestic Well for the 10.07 acre parcel with a dwelling and an accessory structure.

LIQUID WASTE: Conventional Septic System.

VARIANCES: Yes

AGENCY REVIEW:	<u>Agency</u>	<u>Recommendation</u>
	Fire Prevention Division	Not received

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 home. 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 at the time of Development Permit (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 Division for the proposed dwelling unit (As per Article II, § 2).
3. The placement of additional dwelling units is prohibited on the property (As per Article III, § 10).
4. The Applicant shall provide an updated liquid waste permit for the proposed dwelling unit from the New Mexico Environment Department with the Development Permit Application (As per Article III, § 2.4.1a.1(a)iv).
5. The Applicant shall comply with all Fire Prevention Division requirements at the time of Development Permit Application (As per 1997 Fire Code and NFPA Life Safety Code).

EXHIBITS:

1. Letter of request
2. Article III, §10 (Lot Size Requirements)
3. Article II, § 3 (Variances)
4. Aerial of site and surrounding area
5. Warranty Deed
6. Site Plan

Juan & Lucille Gonzalez
59b South Fork
Santa Fe, NM 87508
(505) 660-6328

February 12, 2015

Building and Development Services, Santa Fe County
102 Grant Ave
Santa Fe, NM 87501-2061

RE: Variance – Detailed Letter of Intent

Dear Sir or Madam:

The intent of this letter is to provide a detailed explanation for why a variance should be allowed to afford relief from the strict letter of the ordinance requirements. Applicants, Juan and Lucille Gonzalez, are requesting a variance to the ordinance that mandates the lot size requirements and are seeking permission to convert an existing barn structure into an additional dwelling on their ten-acre lot.

PURPOSE OF THE REQUEST:

We the applicants, Juan and Lucille Gonzalez are seeking permission to build an additional dwelling on our ten-acre lot in order to make room for our family, which has outgrown our current dwelling. Over the last few years and as a direct result of the poor economy on a national and local level, most of the members of our family have been forced to move back home. As a result there are more people living in the dwelling than was originally anticipated. Currently, four out of five of our children have moved back home because they cannot secure employment that pays enough to maintain their own households. In addition to the four children there are also two grandchildren that frequently stay at our dwelling for extended periods of time. As a result of the somewhat sudden influx of bodies living in one home, individuals are sleeping in common areas of the home such as the living room on couches and blow-up air mattresses. Even though our children are currently trying to find steady employment, the likelihood of them moving out in the near future is minimal.

In addition to taking care of grandkids, Lucille is also the primary caregiver to her sister, who was recently diagnosed with Cirrhosis of the liver. There is an inherent danger in her staying at the current dwelling, as she requires constant care and her own space.

Building a new dwelling in close proximity to our current dwelling will allow us the parents, Juan and Lucille Gonzalez, the opportunity to live close to our growing family while still maintaining some privacy and maintaining our own lifestyles while



NBB-5

still assisting our children in allowing them to live in the home that they grew up in. It will also provide quiet, and safe space for Lucille's ailing sister.

Over the last few months to a year we have been waiting for the adoption of the county zoning map with the anticipation that our property would be zoned for an additional dwelling. We are no longer in a position to wait as we have hardships that can only be alleviated by the building of a second dwelling. There is existing precedent for allowing two dwellings on lots that are similar to ours in this area of the county.

OUR VARIANCE REQUEST:

We respectfully request permission to build an additional dwelling on our ten acre lot located at 59b South Fork, Santa Fe NM 87508. The additional dwelling is simply necessary to accommodate a growing family in an economy where full-time, well-paying jobs are not readily obtainable. There is no immediate financial gain in building this home and we do not seek to build it for any reason other than personal and family use. Our neighbors have been informed about our intent to convert our existing barn into a home and they have no objections. Our variance request is not intended in any way to imply that there are flaws in the zoning ordinances and we are not seeking to alleviate mere personal problems or inconveniences. Instead, we are suggesting that there exist individual hardships that can be alleviated by converting an existing structure into a home.

Respectfully submitted,

Juan Gonzalez



Lucille Gonzalez

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

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

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

SECTION 10 - LOT SIZE REQUIREMENTS

10.1 Relationship of Lot Sizes to Water Policies

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



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

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

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

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

BASIN FRINGE ZONE: Same as Basin Zone.

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

MOUNTAIN ZONE: Same as Homestead Zone.

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

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

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

10.2 Calculation of Minimum Lot Size

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

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

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

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

Where:

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

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

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

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

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

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

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

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

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

10.2.2 Calculation of Use

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

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

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

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

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

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

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

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

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

10.2.4 Special Standards for Calculation of Water Availability for Metropolitan Areas

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

a. Standard Values of Water Availability

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

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

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

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

b. Adjustments for Water Conservation

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

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

10.3 Exceptions to Minimum Lot Size Requirements

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

10.3.1 Metropolitan Area - Community Water Systems

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

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

10.3.2 Agricultural Areas

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

10.3.3 Traditional Communities

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

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

10.3.4 Urban Areas

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

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

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

10.4 Density Transfer

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

SECTION 11 - IMPORTING OF WATER

11.1 Location Requirements

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

11.2 Criteria

The following criteria may be used to determine the density of a development which imports water:

- 11.2.1 Traffic Generation. The amount of traffic generated by the proposed activity shall not at any time impede traffic flow, cause a public road to operate at over capacity, nor contribute to excessive air pollution. The Code Administrator may refer an application to the New Mexico Environmental Improvement Division for their comments on the impact of additional development upon air quality.
- 11.2.2 Energy Consumption. Proposed development which is not near employment or shopping facilities shall serve to minimize commuting and shopping trips by such methods as reducing density, provision of employment and shopping in the proposed development, and provision of mass transit facilities.
- 11.2.3 Provision by Local Government of Public Facilities and Services. The proposed development shall not cause undue burden to the local government in the provision of public facilities and services.
- 11.2.4 Compatibility with Adjoining Residences. The proposed development shall be of a character and density that will not be intrusive to the adjoining residential areas as they now exist or may develop as permitted by the Development Code. The development:
 - a. Shall correlate with the residential life style of adjoining residences as expressed in intensity of use and size of structures;
 - b. Shall provide a sense of the open space of rural areas that corresponds to adjoining locations; and
 - c. Shall generate corresponding amounts of vehicular traffic.

2.5 Zoning

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

2.6 Subdivisions

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

2.7 Other Requirements

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

SECTION 3 - VARIANCES**3.1 Proposed Development**

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

3.2 Variation or Modification

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

3.3 Granting Variances and Modifications

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

3.4 Height Variance in Airport Zones

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

EXHIBIT**3**

II - 9

WARRANTY DEED

1566662

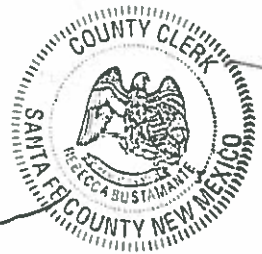
Stephanic A. Ruvolo, an unmarried woman, for consideration paid, grants to Juan Gonzalez and Lucille Gonzalez, husband and wife whose address is _____ the following described real estate in Santa Fe County, New Mexico.

See Attached Schedule "A"

COUNTY OF SANTA FE 1049) 627
STATE OF NEW MEXICO)
I hereby certify that this instrument was filed for record on the 17 day of Nov A.D. 19 98 at 2:47 o'clock PM and was duly recorded in book 1526 page 662-663 of the records of Santa Fe County.

Witness my Hand and Seal of Office
Rebecca Bustamante
County Clerk, Santa Fe County, N.M.

Rebecca Bustamante
Deputy



Subject to: Reservations, restrictions and easements of record and taxes for the year 1998 and thereafter with warranty covenants.

Witness my hand this 16th day of November, 1998.

Stephanic A. Ruvolo
Stephanic A. Ruvolo

ACKNOWLEDGEMENT FOR NATURAL PERSONS:

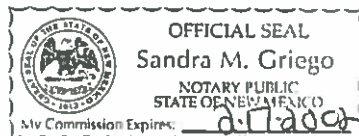
State of New Mexico)
County of Santa Fe) SS.

This instrument was acknowledged before me on the 16th day of November, 1998, by Stephanic A. Ruvolo.

My commission expires: 2/17/2002

(Seal)

Sandra M. Griego
Notary Public



File No. 09810317 SG

EXHIBIT "A"

1566663

Lot B, as shown on plat entitled "Lot Line Adjustment for Stephanie A. Ruvolo, NW1/4 NW1/4 Section 31, T.15N., R.9E., N.M.P.M...", filed in the office of the County Clerk, Santa Fe County, New Mexico on October 20, 1998, in Plat Book 397, page 044, as Document No. 1045,521.

NBB-17

South Fork City

South Fork

ENTRY GATE 16' wide

100' NARROW ROAD 14' 10" wide

10.070 AC ±
59B SOUTH FORK.

CEDAR

