

7.11.4.3. There shall be a minimum of three percent (3%) crown in the driving surface for water runoff.

**7.11.5. Drainage; Curb and Gutter.**

7.11.5.1. **Culverts.** Culverts, if used, shall be sized to accommodate a one hundred (100) year storm. Culverts shall also be of sufficient size, gauge, and length, and placed appropriately deep to withstand projected traffic loading and storm runoff.

7.11.5.2. **Curb and Gutter.** Curb and gutter shall be required where deemed necessary for drainage control or protection of pedestrians.

**7.11.6. Intersections and roundabouts.**

7.11.6.1. Roads shall be laid out to intersect each other as nearly as possible at ninety (90) degree right angles; under no condition shall intersection angles be less than seventy (70) degrees.

7.11.6.2. Offset intersections less than two hundred (200) feet apart shall not be permitted.

7.11.6.3. Property lines at road intersections shall be rounded with a minimum radius of twenty-eight (28) feet or a greater radius when necessary to permit the construction of a curb and sidewalk or when otherwise needed.

7.11.6.4. A tangent of sufficient distance shall be introduced between reverse curves on all roads according to AASHTO standards.

7.11.6.5. When connecting road centerlines deflect from each other at any point by more than ten degrees, they shall be connected by a curve with a sufficient radius adequate to ensure adequate sight distance according AASHTO standards.

7.11.6.6. Grades at the approach of intersections shall not exceed five percent (5%) for one hundred (100) linear feet prior to the radius return of the intersection, excluding vertical curve distance.

7.11.6.7. Curvature in intersection design alignments shall not be less than stopping distances required for the design speed of the road as per AASHTO Standards. The geometry of intersections shall be consistent with the design speed of the road and AASHTO Standards.

7.11.6.8. Road jogs with centerline offsets of less than two hundred (200) feet shall be prohibited.

7.11.6.9. A capacity analysis of any proposed roundabout shall be conducted in accordance with Highway Capacity Manual methods. The analysis shall include consideration for the largest motorized vehicle likely to use the intersection.

7.11.6.10. Roundabouts shall be designed in conformance with the guidelines set forth in the Federal Highway Administration (FHWA) publication "Roundabouts: An Informational Guide." (Second Edition Report 672, National Cooperative Highway Research Program, 2010).



Table 7-12: Urban Road Classification and Design Standards (SDA-1 and SDA-2).

	Avg. daily traffic	# of driving lanes	Lane width (ft)	Sidewalks	Bike lanes	Minimum ROW (ft)	Design Speeds (mph)	Max % Grade	Min. agg. base course	Min. bit. pavement	Min % Super-elev.
Major Arterial or highway	5000 +	2-6	12	Two 5'	Two 5 ft on-road	150	Level 50+ Rolling 50+ Mount 50+	5%	6"	6"	Refer to AASHTO
Minor arterial	2000 to 4999	2-4	12	Two 5'	Two 5 ft on-road	120	Level 30-60 Rolling 30-60 Mount 30-60	5%	6"	5"	Refer to AASHTO
Collector	601 to 1999	2	11	Two 5'	Two 5 ft on-road	80	Level 30+ Rolling 30+ Mount 30+	8%	6"	4"	5%
Sub-collector	301 to 600	2	11	Two 5'	Two 5 ft on-road	60	Level 30+ Rolling 30+ Mount 30+	8%	6"	4"	5%
Local	0 to 400	2	10	One 5'	n/a	50	Level 20-30 Rolling 20-30 Mount 20-30	7%	6"	3"	5%
Cul-de-Sac	0 to 300	2	10	n/a	n/a	38	Level 30-50 Rolling 20-40 Mount 20-30	9%	6"	3"	n/a
Alley	n/a	1	12	n/a	n/a	19	n/a	7%	6"	3"	n/a
Driveway	n/a	1	14	n/a	n/a	20	n/a	10%	n/a	n/a	n/a



#### 14.9.7. Variances.

**14.9.7.1. Purpose.** The purpose of this section is to provide a mechanism in the form of a variance that grants a landowner relief from certain standards in this code where, due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner. The granting of an area variance shall allow a deviation from the dimensional requirements of the Code, but in no way shall it authorize a use of land that is otherwise prohibited in the relevant zoning district.

**14.9.7.2. Process.** All applications for variances will be processed in accordance with this chapter of the Code.

**14.9.7.3. Applicability.** When consistent with the review criteria listed below, the planning commission may grant a zoning variance from any provision of the SLDC except that the planning commission shall not grant a variance that authorizes a use of land that is otherwise prohibited in the relevant zoning district.

**14.9.7.4. Review criteria.** A variance may be granted only by a majority of all the members of the Planning Commission (or the Board, on appeal from the Planning Commission) where authorized by NMSA 1978, Section 3-21-8(C):

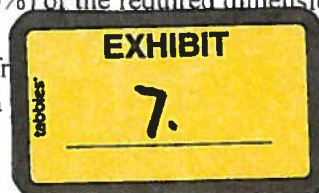
1. where the request is not contrary to the public interest;
2. where, owing to special conditions, a literal enforcement of the SLDC will result in unnecessary hardship to the applicant; and
3. so that the spirit of the SLDC is observed and substantial justice is done.

#### 14.9.7.5. Conditions of approval.

1. The Planning Commission may impose conditions on a variance request necessary to accomplish the purposes and intent of the SLDC and the SGMP and to prevent or minimize adverse impacts on the general health, safety and welfare of property owners and area residents.
2. All approved variances run with the land, unless conditions of approval imposed by the Planning Commission specify otherwise.
3. All approved variances automatically expire within one year of the date of approval, unless the applicant takes affirmative action consistent with the approval.

**14.9.7.6. Administrative minor deviations.** The Administrator is authorized to administratively approve minor deviations upon a finding that the result is consistent with the intent and purpose of this SLDC and not detrimental to adjacent or surrounding properties as follows:

1. minor deviations from the dimensional requirements of Chapter 7 of the SLDC not to exceed ten percent (10%) of the required dimension.
2. minor deviations from the dimensional requirements of Chapter 8 of the SLDC not to exceed five tenths of a [redacted] acreage allowed in the zoning district.



CERTIFICATION OF POSTING

I hereby certify that the public notice posting regarding Land Development Case # √ 10 - ~~5150~~ was posted for 15 days on the property beginning

The 10 day of August 2016. \*\*

Briana Martinez  
Signature

\*Photo of posting must be provided with certification

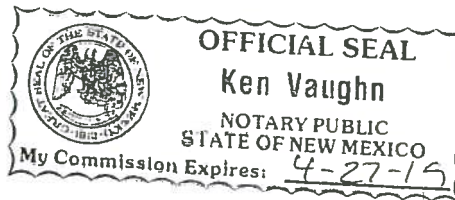
\*\***PLEASE NOTE:** Public notice is to be posted on the most visible part of the property. Improper legal notice will result in re-posting for an additional 21 days. It is the applicant's responsibility to ensure that the notice is on the property for the full 21 days.

STATE OF NEW MEXICO }  
  }  
COUNTY OF SANTA FE }

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of August, 2016, By Briana Martinez.

Ken Vaughn  
Notary Public

My Commission Expires:  
April 27, 2019



NBA-76

# SANTA FE NEW MEXICAN

Founded 1849

JENKINS GAVIN DESIGN.  
130 GRANT AVE STE 101  
SANTA FE, NM 87501

ACCOUNT: 4904  
AD NUMBER: 0000174948  
LEGAL NO 81395 P.O. #:  
1 TIME(S) 98.70  
AFFIDAVIT 10.00  
TAX 9.04  
TOTAL 117.74

## AFFIDAVIT OF PUBLICATION

STATE OF NEW MEXICO  
COUNTY OF SANTA FE

I, W. Barnard, being first duly sworn declare and say that I am Legal Advertising Representative of THE SANTA FE NEW MEXICAN, a daily newspaper published in the English language, and having a general circulation in the Counties of Santa Fe, Rio Arriba, San Miguel, and Los Alamos, State of New Mexico and being a newspaper duly qualified to publish legal notices and advertisements under the provisions of Chapter 167 on Session Laws of 1937; that the Legal No 81395 a copy of which is hereto attached was published in said newspaper 1 day(s) between 08/10/2016 and 08/10/2016 and that the notice was published in the newspaper proper and not in any supplement; the first date of publication being on the 10th day of August, 2016 and that the undersigned has personal knowledge of the matter and things set forth in this affidavit.

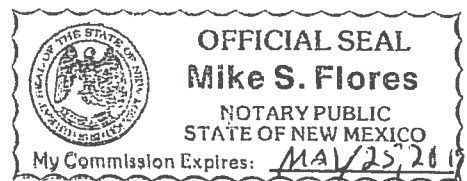
/s/

  
LEGAL ADVERTISEMENT REPRESENTATIVE

Subscribed and sworn to before me on this 10th day of August, 2016

Notary

  
Commission Expires: MAY 25, 2019



MBA-77.

# SANTA FE + NEW MEXICAN

Founded 1849

LEGAL# 81395

CASE # V 16-5150  
Heart's Way Ranch.

## NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held to consider a request by Susan Carter, Applicant, JenkinsGavin, Design & Development Inc., Agents, for three variances of the SLDC to allow a retreat facility. The site is zoned as Rural Fringe (RUR-F). Appendix B designates a retreat as a permitted use within RUR-F zoning. The Applicant requests a variance of Chapter 7, Section 7.11.6.6 to allow the grade of the approach at the intersection to exceed 5%, a variance of Chapter 7.11.2, Table 7-13, to allow the grade of the driveway to exceed 10%, and a variance of 7.11.2 Table 7-13 Local Road Design Standards for access from offsite roads that don't meet Code requirements. The 39.5 acre property is located at 34 Sendero de Corazon, via La Barbaria Trail within Section 9, Township 16 North, Range 10 East (Commission District 4), SDA-3.

Continued...

A public hearing will be held in the County Commission Chambers of the Santa Fe County Courthouse, corner of Grant and Palace Avenues, Santa Fe, New Mexico on August 25, 2016, at 3 p.m. on a petition to the Santa Fe County Hearing Officer and on September 15, 2016, at 4 p.m. on a petition to the Santa Fe County Planning Commission.

Please forward all comments and questions to the County Land Use Administration Office at 986-6225. All interested parties will be heard at the Public Hearing prior to the Hearing Officer/Planning Commission taking action. All comments, questions and objections to the proposal may be submitted to the County Land Use Administrator in writing to P.O. Box 276, Santa Fe, New Mexico 87504-0276; or presented in person at the hearing.

Please forward affidavit of publication to the County Land Use Administrator, P.O. Box 276, Santa Fe, New Mexico 87504-0276.

Written verification of the publication shall be provided to the Administrator prior to the public hearing.

Published in the Santa Fe New Mexican on Wednesday August 10, 2016.

NBA - 78

Resident  
50 C LA BARBARIA TRL  
SANTA FE, NEW MEXICO  
87505

ROWLEY, KENNETH & SANDRA  
38 CAMINO TORTUGA  
SANTA FE, NEW MEXICO  
87505

MOUNTAIN HEART, LLC  
50 B LA BARBARIA TRL  
SANTA FE, NEW MEXICO  
87505

Resident  
0 CAMINO TORTUGA  
SANTA FE, NEW MEXICO  
87505

SHELTON, KATHERINE K & J  
50 A LA BARBARIA TRL  
SANTA FE, NEW MEXICO  
87505

ROWLEY, KENNETH & SANDRA  
8497 S CUSTER LN  
EVERGREEN, CO  
80439

Resident  
0 LA BARBARIA TRL  
SANTA FE, NEW MEXICO  
87505

LOPEZ, DENEZ  
26 CAMINO TORTUGA  
SANTA FE, NEW MEXICO  
87505

CHOPPIN, GREGORY R & ANNE W  
208 HOLLAND RD  
SIMOSINVILLE, SC  
29681-5802

Resident  
7 OWL CREEK RD  
SANTA FE, NEW MEXICO  
87505

SOUBERMAN, ELLEN J  
63 A LA BARBARIA TRL  
SANTA FE, NEW MEXICO  
87505

DEUSCHLE, JAMES & CATHERINE  
(TRUSTEES)  
225 E 24<sup>TH</sup> ST  
TULSA, OK  
74114

BANK, RICHARD M & LAURA K  
6 OWL CREEK RD  
SANTA FE, NEW MEXICO  
87505

NBA-79

# PUBLIC NOTICE

Notice is hereby given that an application has been filed with Santa Fe County for two variances of the Code to allow a military facility the site is zoned as Rural Fringe (RUF-1) and the applicant is requesting as a permitted use within RUF-1 zoning the applicant requests a variance of Chapter 7, Section 7-1-10 to allow the grade of the approach of the intersection to exceed 5% & a variance of Chapter 7, Section 7-1-10 to allow the grade of the driveway to exceed 10%.

Name of Applicant: Susan Corrier

Address of Request: 34 Sierra Rd. Santa Fe, NM 87501

Legal Description: Section 4, Township 18N, Range 10E, N.M.P.M.

Range: 10E, N.M.P.M.

A Public Hearing will be held at the Santa Fe County Courthouse, corner of Palace and Grand Avenues, Santa Fe, New Mexico on ~~the 15th day of~~ ~~July~~ ~~2016~~ at 5pm before the Planning Commission.

Further information can be obtained by contacting the Land Use Department, P.O. Box 276, Santa Fe, NM 87501, Phone: (505) 906-6225, Development Permit # 16-5160.

1 NBA 80



July 13, 2016

Santa Fe County Zoning Hearing Officer

Santa Fe Planning Commission

RE; Hearts Way Ranch

Dear Hearing Officer & Members of the Planning Commission,

I am writing as Chairman of the La Barbaria Trail Association. We are opposing the plan to develop an alcohol and drug treatment center on Sendero do Corazon, a long, steep, one lane dirt driveway off of La Barbaria Trail and Tortuga.

La Barbaria Trail is a private dirt road less than a mile long; it is not wide enough for two cars to pass in a few places without one pulling off to the side. Maintaining the road is expensive and the land on either side of the road is heavily forested. There are only eleven houses on the road that are lived in full time and four that are part-time residences. In the past we have all known each other's cars and there has been very little traffic. Since the Owners of "Hearts Way Ranch" moved in and began developing the property traffic has increased at least threefold. There are the two women who own the property and their guests; they have also hired two on-site property managers, a cleaning crew to care for the main house and two guest houses, there are workmen and other miscellaneous vehicles up and down the road on and off all day. The road is steep in places and fragile as are all dirt roads. This wear and tear will be far more expensive to maintain and there is the additional problem that these strangers drive way too fast and I have had several calls from neighbors to say that they have been almost run off the road by unknown vehicles. If this project goes through I know they plan to buy some sort of van or SUV to transport their clients/guests to various cultural sites and events in Santa Fe and surrounding areas. If these people are alcoholics, as Susan Carter says most will be, then I assume they will be taken to AA meetings also. Our road simply cannot handle this kind of traffic.

We maintain our road as we can afford it and also do some fire mitigation to try to thin trees along the road. The new owners of this property are not paying their road dues, in spite of their heavy use of the road.

The next large problem with this development is the danger of a catastrophic fire. The last five fire chiefs at the Hondo Fire Dept. have told us at various neighborhood meetings that because of the very steep and heavily forested terrain up here a fire, should one occur, will be "catastrophic", which they define as "causing heavy loss of life and property". It could be impossible to get fire trucks up here because cars and fire trucks cannot pass each other on the narrow road and traffic jams would result which would trap all of us.

As far as the "Hearts Way Ranch" property is concerned a fire truck would not even be able to get up their very steep one lane driveway if it could get up La Barbaria Trail, which is as I said problematic.

I have been told by the Planning Commission that the clients/guests at the ranch are not to be allowed up at the main house where the owners live because the driveway is dangerously steep and it does ice up in winter at times. The two guest houses are very small and Susan Carter told me that the main house living room would be used for community meetings and the big



INBA-81

kitchen in that house for community meals. There is no other space for the group to gather unless they start building, which we hope will not happen.

Our neighborhood here is unique, even for Santa Fe. Our properties are fairly large, five to 160 acres, with most having about 20 acres. We border the Santa Fe National Forest and are a bit of a wildlife refuge. We cherish the wildlife and regularly see bears, coyotes, bobcats, rabbits, squirrels and the occasional passing cougar. A fish and game officer told me a few years ago that there were probably about 10 bears wandering our canyon at any given time. Those of us who have lived here for years are used to the wildlife and feel privileged to share our environment with them. But, placing a commercial facility in the midst of this seems inappropriate. I know the owners plan to advertise their "ranch" and city and suburban people who respond are not going to have any idea of how to cope with wandering wildlife. Susan Carter told me that one of the reasons they chose the property they did was so that the clients/guests could hike. The number of people they will have up there will not be allowed to hike on our private properties and the 40 acres they own is all very, very steep, as is much of the adjacent National Forest.

This commercial venture simply seems terribly inappropriate for La Barbaria Trail and would, I think put its guests/clients in situations that could be dangerous, or in case of fire, life threatening. It would cause increased danger for the rest of us because of the increased traffic, which will only get worse if they are allowed to open this facility.

Please do not let this commercial enterprise destroy our peaceful and wild refuge along beautiful La Barbaria Trail. I know there are far more appropriate places for this development.

Thank you for your consideration.

Sincerely,

  
Catherine Joyce-Coll

La Barbaria Trail Association Chairman

Graeser & McQueen, LLC  
— ATTORNEYS AT LAW —

July 18, 2016

Santa Fe County Zoning Hearing Officer  
Santa Fe County Planning Commission

*Re: Hearts Way Ranch Variance Request*

Dear Hearing Officer and Members of the Planning Commission,

We represent the La Barbaria Trail Association, which is very concerned with this pending application. This letter is in reference to agent JenkinsGavin, Inc.'s May 27, 2106 variance application letter to Jose Larranaga (the "Letter").

The request is for variances from SLDC Table 7-13 (maximum 10% grade on driveways) and Section 7.11.6.6 (maximum 5% grade at approach of intersections). Sheets 6B-6D of the application show that approximately 1/3 of the entire 1/2 mile-long driveway has grades that exceed the standard, with approximately 1/3 of that portion being double the allowable grade. The Applicant does not show the intersection grade.

The purpose of these road standards includes to "provide for the safety for both vehicular and pedestrian traffic." SLDC 7.11.1.2. Therefore, a dimensional variance from these safety criteria must be given the utmost scrutiny.

SLDC 14.9.7 allows variances "where, due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner." The criteria of Section 14.9.7.4 are as follows:

A variance may be granted only by a majority of all of the members of the Planning Commission (or the Board, on appeal from the Planning Commission) where authorized by NMSA 1978, Section 3-21-8(C):

1. where the request is not contrary to the public interest;
2. where, owing to special conditions, a literal enforcement of the SLDC will result in unnecessary hardship to the applicant; and
3. so that the spirit of the SLDC is observed and substantial justice is done.

Section 3-21-8.C(1), in turn, contains these same criteria, but with the additional requirement that the goals and policies of the comprehensive plan are implemented:

---

Christopher Graeser ■ Matthew McQueen ■ John B. Hiatt

316 E. Marcy Street ■ PO Box 220 Santa Fe, NM 87504 ■ 505-982-9074 ■ chris@tierralaw.com

NB1483

[the zoning authority may] authorize, in appropriate cases and subject to appropriate conditions and safeguards, variances or special exceptions from the terms of the zoning ordinance or resolution:

- (a) that are not contrary to the public interest;
- (b) where, owing to special conditions, a literal enforcement of the zoning ordinance will result in unnecessary hardship;
- (c) so that the spirit of the zoning ordinance is observed and substantial justice done; and
- (d) so that the goals and policies of the comprehensive plan are implemented...

Here, the variance request fails on each of the code and statutory criteria:

### I. THE VARIANCE IS CONTRARY TO THE PUBLIC INTEREST

The Applicant's justification that "The variance is requested for an existing private driveway and thus is not contrary to the public interest," Letter at 2, is disingenuous. If the standard were not meant to apply to private driveways, the Commission would not have applied it to driveways. However, it does apply. Moreover, while the driveway is existing, the Applicant proposes a new use of that driveway. That new use is by customers, subjecting people other than the owners to the dangerous condition when the Applicant acknowledges that "the subject property comprises very steep terrain." Letter at 3.

The public interest is particularly compelling given the fire danger exacerbated by inadequate emergency vehicle access. This is not an area variance of aesthetic standards like, for instance, a taller building or reduced lot frontage. The diminution of safety is not in the public interest.

The Applicant's letter focuses on the driveway and in no way addresses the public interest associated with allowing the intensified use of the steep intersection of Sendero de Corazon and Camino Tortuga. The Applicant has failed in its burden to demonstrate entitlement to a variance. The Applicant's failure to provide information that would be essential to determining if the variance is in the public interest is a compelling reason for denial. Neither the Hearing Officer nor the Planning Commission can determine the degree of variance sought. Is it *de minimus*, or is it substantial like the more than doubling of grade for the driveway?

More concerning is the Applicant's choice not to provide a traffic impact analysis. While a TIA is not required for a variance, it is required by the SLDC for the associated development permit (SLDC Table 6-1). The Applicant states that "The Public Works

Department has stated that a Traffic Impact Analysis is not required for this application." May 27, 2016 letter to Jose Larranaga with development plan application. However, the SLDC does not confer on the Public Works Department the authority to waive this requirement. Neither the Hearing Officer nor the Planning Commission can determine the effect of traffic use on the dangerous grades.

## II. LITERAL ENFORCEMENT OF THE SLDC WILL NOT RESULT IN UNNECESSARY HARDSHIP TO THE APPLICANT

Neither the SLDC nor statute define unnecessary hardship. The Court of Appeals took on that task, prescribing a two-part test in *Downtown Neighborhoods Association v. City of Albuquerque*, 1989-NMCA-091 ¶21, 109 N.M. 186:

The ultimate question to be answered is whether the applicant has shown "unnecessary hardship." In answering that question, the body considering the variance must resolve several factual questions.

The first question is whether the parcel is distinguishable from other property that is subject to the same zoning restrictions. The answer depends upon whether, as a result of the differences between this parcel and others, the zoning restrictions create particular hardship for the owner. The test is whether, because of the differences, the owner will be deprived of a reasonable return on his or her property under any use permitted by the existing zoning classification. 6 R. Powell, *supra*, at 872.2[1][b]. If this question is answered affirmatively, then the body considering the variance is entitled to conclude that there are exceptional or special circumstances justifying consideration of a variance. If not, the applicant must seek a change in the zoning restrictions themselves. If the body considering the variance determines that the applicant has shown exceptional or special circumstances, then it still must consider whether the particular variance requested is appropriate. The answer to this question depends upon a comparison of the special circumstances shown and the public interest. The test is whether the hardship identified can be avoided consistently with the public interest. *Id.* If this question is answered affirmatively, then the zoning authority must conclude that the applicant is entitled to a variance. If not, it may deny the variance.

The Court further explained that "unnecessary hardship' has been given special meaning by courts considering a zoning authority's power to grant a variance. It

ordinarily refers to circumstances in which no reasonable use can otherwise be made of the land.” *Downtown Neighborhoods* ¶27.

Again the Applicant offers inadequate facts to support the variance request. The Applicant states only that the subject property “comprises very steep terrain” and that reconstructing the driveway to meet the standards would “excessively damage the terrain and would also be prohibitively expensive.” Letter at 3. There is no discussion whatsoever as to how the subject property “is distinguishable from other property that is subject to the same zoning restrictions.” There is no analysis of the driveway and intersection slopes of each other property in the La Barbaria area in comparison to the subject property. It is self-evident, in fact, that it is not distinguishable. A cursory inspection reveals that the entire area is on steep slopes with nonconforming roads and driveways. There is nothing special about the subject property in that respect.

Even if the subject property were distinguishable, there is no showing that “the differences between this parcel and others.... create a particular hardship for the owner.” That analysis is in the context of whether the Applicant “will be deprived of a reasonable return on his or her property under any use permitted by the existing zoning classification.” We do not know what the owners paid for the property, how that amount relates to appraised residential valuation, what is the fair market rent that can be attributed to the property is any other factors that might help analyze return on investment.<sup>1</sup> The Applicant has not attempted to explain how continued use of the residential property for residential purposes deprives the owners of a reasonable return. Rather, the facts demonstrate the opposite.

The current owners purchased the property in January, 2016. They did so on the basis of a listing for a “single family” property in the “residential” class advertised as the “ultimate family compound.” The listing further noted that “current owner leases out guest houses which covers most expenses.” This is all strong evidence that continued residential use is a reasonable return on the investment.

It is also important to note that the owners purchased the property prior to seeking approvals. If the existing residential uses are an inadequate exchange for their money the prudent and common path would have been to obtain their entitlements prior to purchase. They chose not to do so, and as such assumed the risk that they would be required to adhere to the existing zoning.

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<sup>1</sup> The subject was listed for \$2.5 million and is currently assessed at \$1.45 million. New Mexico does not require disclosure of sale prices.

III. THE SPIRIT OF THE ZONING ORDINANCE AND  
SUBSTANTIAL JUSTICE REQUIRE DENIAL OF THE VARIANCE REQUEST

The spirit of the zoning ordinance is to “protect and promote the health, safety and general welfare of the present and future residents of the County,” SLDC 1.4.1, in general and to “provide for the safety of for both vehicular and pedestrian traffic,” SLDC 7.11.1.2, in particular. The specific zoning standards relate to road safety, including the ability of emergency vehicles to access necessary areas.

Where, as here, an Applicant proposes to change and intensify an existing use and to drastically exceed allowable road grade standards, the health, safety and welfare foundations of the zoning ordinance need to be given particular respect.

The owners purchased a residential compound. There is no prohibition on continuing to enjoy it as a residential compound. It would violate the spirit of the SLDC to permit intensification of use when the infrastructure does not support it.

IV. THE GOALS AND POLICIES OF THE  
COMPREHENSIVE PLAN REQUIRE DENIAL OF THE VARIANCE

The SLDC implements the goals and policies of the SGMP, and therefore this portion of the analysis is in large part reflected above. There are some additional policies worth noting however.

*SGMP Key Issue 10.1.1.2: “Various deficiencies in roadway design have been identified which directly affect emergency response including substandard grades, widths and turnarounds hampering access; roads which are inaccessible in bad weather, poorly constructed or maintained roads...”*

-The intersection and driveway of the subject property are clearly deficient and new uses should not be allowed to increase the problems.

*SGMP Goal 32, Policy 32.6: “Provide a safe, efficient, interconnected roadway network.”*

-Allowing intensified uses that exacerbate substandard, unsafe roads is directly contrary to this goal and policy.

*SGMP Goal 32, Policy 32.9: “Use traffic impact assessments (TIA) to ensure adequate access and capacity.”*

-Applicant failed to submit the required TIA to allow analysis of impacts.

On careful examination of the application in reference to the applicable standards, the variances may not be granted. "Variances are considered to be extraordinary exceptions and are granted sparingly, only under peculiar and exceptional circumstances." *Downtown Neighborhoods* ¶11, citing 8 E. McQuillin, *The Law of Municipal Corporations* § 25.162 (3d ed. 1983). Applicant's situation is not a peculiar or exceptional circumstance. To the contrary, it is an entirely ordinary and common circumstance.

In closing, the Court of Appeals' explanation that "variances should be granted sparingly, only under exceptional circumstances. To do otherwise would encourage destruction of planned zoning," is particularly relevant. Here, the planned zoning – planned so recently with the adoption of the SLDC – clearly requires driveway grades of less than 10% and intersection grades of less than 5%. The Association asks that you not permit destruction of that planning so soon after its adoption. Please deny the variance request.

Sincerely,

/s/

Christopher L. Graeser

enc: listing documents



August 9, 2016

Santa Fe County Zoning Hearing Office and Planning Commission

Santa Fe County

102 Grant Avenue

Santa FE, NM 87501

Re: Hearts Way Ranch Variance Request

Gentlemen:

We are the owners of 7 Owl Creek Road, Santa Fe, NM and we are neighbors to the Hearts Ranch property. We are writing to you in regards to the above referenced Heart's Way Ranch Retreat Site Development Plan Application. We regret that due to prior obligations, we will be out of own and unable to attend the Hearing on this matter. Please accept this letter in lieu of our appearance at the Hearing.

We urge you to deny the variance request for the following reasons:

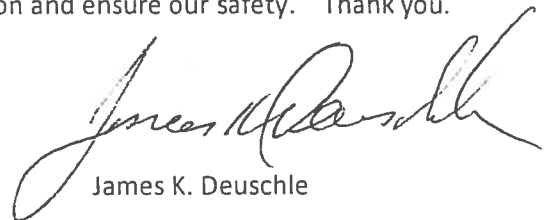
1. The La Barbaria Road, which is the only road accessing the applicant's property, is a private narrow, steep, twisty road that is privately maintained (graded, plowed, culverts maintained, etc.) by about eleven property owners to service the residences of the owners. Please note that the owners of the Hearts Way property are not among the owners maintaining La Barbaria Trail Road. This road is not even close to being in compliance with the Development Code. I note that the ingress and egress easements that burden the property owners who maintain the La Barbaria Trail Road calls for a twenty feet wide easement, in reality there are several portions of the road that are not twenty feet in width. If the purpose of the code is to guard the safety and welfare of the public and adjoining property owners, allowing this variance request would be a dereliction of the duty imposed by the Code.
2. Allowing this variance will create a precedent encouraging other future property owners in the La Barbaria Canyon to consider inappropriate commercial uses of their property in a neighborhood that historically has always been used for single family residential purposes. The granting of the variances requested by applicant will afford any such future applicant(s) seeking to use or neighborhood and road for a commercial venture the valid argument that the granting of a variance to Hearts Way and denying theirs would be "unjust".
3. The intended use of Hearts Way as an alcohol treatment facility ( aka "sober wellness retreat") is irrelevant to the consideration of the variance. The application submitted to the Commission makes great weight of the social benefits and moral purpose of the proposed rehab use of the property. The Code does not entertain that the possibility of a social benefit of the intended use is or should be a criterion to be considered in the granting of a variance. Furthermore, this is a disingenuous attempt by the applicants to cloak themselves and their proposed facility as being

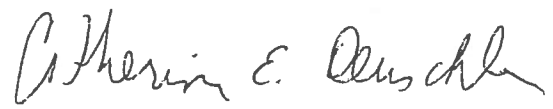
NBA-89

an altruistic endeavor to benefit society. The proposed facility is a commercial venture that, if the requested variances are approved, will create substantial gross income for the benefit of the applicants. The proposed clinic would be operating out of a high end residence in a residential neighborhood and it is obviously not going to be catering to persons who are without substantial financial means. This is not a charitable institution that is seeking your granting of a variance and I urge you not to be swayed by the applicant's characterization of their business as being somehow for the benefit of mankind and not for the benefit of their own pocket book in order make an emotional appeal to grant their variance requests out of the Commission's sense of social fairness and moral purpose.

4. It defies common sense to believe the proposed new use of the applicant's property will not result in a significant increase use of the road and also use of the road by persons who as employees and guests rather than neighbors will have no particular reason to concern themselves with the proper use of our road i.e., pulling over when vehicles meet, not traveling too fast to avoid creating excessive dust and ruts, slowly and cautiously going around the blind curves and blind hills all of which abound on La Barbaria Road and Trail. The prior residential use of the property did not entail the employment of cooks, therapists, yoga instructors, massage therapists, group hiking leaders, cultural tour vans, musicians, visitors of the "retreat guests" ( aka patients), etc. (See page one of the May 26, 2016 application letter which sets forth various intended uses and activities the applicants seek to provide). The increased use of the non-complying road should not be permitted as it would result in a detriment to public health and safety.
5. The applicants are far from acting in good faith. The applicants have not posted any notice of the proposed hearing in any manner on the La Barbaria Trail as of the date of this letter. It is my understanding that the only notice they posted so far was at the end of their drive which only the applicant's access. I did receive a letter advising me of the July 28, 2014 hearing that was postmarked on the last possible day of the required mail out date. We received no notice of the new hearing date as of today's date. The original application failed to consider the use of our private road as being necessary to the proposed Development which at best was an oversight and, at worst, a blatant attempt to as covertly as possible obtain the requested variance without alerting the users of the La Barbaria Trail Road of the new use of it by the applicants.

In conclusion, please follow the Code and deny this application and ensure our safety. Thank you.

  
James K. Deuschle

  
Catherine E. Deuschle

Dear Commissioners,

On Thursday, July 28 the Planning Commission's Hearing Officer will be reviewing a variance for 34 Sendero de Corazon.

Susan Carter and Shari Scott want to provide a critically-needed service to women who are in the early days of sobriety. Following completion of a treatment program, four to six women at a time would come to Heart's Way Ranch to continue healing. Santa Fe is an exemplary place for this to happen.

Currently the property at 34 Sendero de Corazon allows for short term rentals. Due to the size of the casitas the roads and surrounding neighbors could be impacted by random renters. The clients at Heart's Way Ranch would be well-vetted and traveling as a group, not individually, as they would not have personal vehicles. The services provided to the clients are invaluable as they prepare to re-enter the world. They will be given the tools to make better choices and to help break the cycle of addiction. The program they want to implement will be life changing and for many lifesaving. From a personal perspective, I lost a very close friend to suicide, whom had gone thru a treatment program for alcoholism at Betty Ford. Unfortunately there was not a Heart's Way Ranch to keep the good work that happened at Betty Ford going and alcoholism won.

A tool that the program will utilize is giving back to the community. Not only will the charities in Santa Fe benefit in the short run by allowing the clients to help others, but if they are like me, the benefits will last far beyond their stay at Heart's Way by financial support.

Heart's Way Ranch will benefit clients and the community. Please support the variance for women to get the help they need. Shari and Susan conducted the due diligence necessary prior to buying the property and not approving the negligible driveway variances puts this life-saving program in serious jeopardy. Given the high mortality rate of people dying daily from drugs and alcohol abuse it would not only be seriously disappointing, but negligent to the women who are in desperate need of help in the state of New Mexico as well as our country.

Thank you for your thoughtful consideration.



Jill Bee  
356 Hillside  
Santa Fe NM 87501  
(505)954-1911



NZA-91

**From:** Roger A Ayres <[rogerbill8436@gmail.com](mailto:rogerbill8436@gmail.com)>

**Date:** July 9, 2016 at 10:29:12 AM MDT

**To:** "[jshelton@newmexico.com](mailto:jshelton@newmexico.com)" <[jshelton@newmexico.com](mailto:jshelton@newmexico.com)>, Adam Horowitz <[primordials@earthlink.net](mailto:primordials@earthlink.net)>, Catherine Joyce-Coll <[maxandcatherine@lobo.net](mailto:maxandcatherine@lobo.net)>, "[dojundw@icloud.com](mailto:dojundw@icloud.com)" <[dojundw@icloud.com](mailto:dojundw@icloud.com)>, Debby Park <[rayanddeb@gmail.com](mailto:rayanddeb@gmail.com)>, Denez Lopez <[denezg@cs.com](mailto:denezg@cs.com)>, Katherine Shelton <[kakshelton@gmail.com](mailto:kakshelton@gmail.com)>, Ellen Souberman <[isoub@aol.com](mailto:isoub@aol.com)>, Gail Haggard <[plantsofthesouthwest@gmail.com](mailto:plantsofthesouthwest@gmail.com)>, James Deuschle <[JKDeuschle@coxinet.net](mailto:JKDeuschle@coxinet.net)>, Kate Sinnott <[patagonia40@optonline.net](mailto:patagonia40@optonline.net)>, Mike Peterson <[mpeters7@hughes.net](mailto:mpeters7@hughes.net)>, Richard Bank <[bank@cybermesa.com](mailto:bank@cybermesa.com)>, Susan Carter <[src12@me.com](mailto:src12@me.com)>, Willa Shallit <[willa@maidennation.com](mailto:willa@maidennation.com)>, "[wtjordan2@gmail.com](mailto:wtjordan2@gmail.com)" <[wtjordan2@gmail.com](mailto:wtjordan2@gmail.com)>

**Subject:** Re: Proposed retreat

Bravo and thank you Jay. Your efforts are greatly appreciated... You may not be an Attorney (LOL) but your position has more legal precedent in your contiguous property line. Personally I believe that this world needs all the good we can bring... And I do believe this is a very good and worthy venture. Good for the community and our small valley. Thank you Susan for sharing your business plan and your intension with us on a personal basis. You have my full cooperation and support. Susan, I/We are available in writing, and in person as needed.

50 C

Roger and Wendy

WBA- 92

Dear Commissioners,

On Thursday, July 28 the Planning Commission's Hearing Officer will be reviewing a variance for 34 Sendero de Corazon.

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Thank you for your thoughtful consideration.



Jill Bee  
356 Hillside  
Santa Fe NM 87501  
(505)954-1911

NBA-93

*Cynthia and Bill Pridham  
12 Mountain Top Road  
Santa Fe, New Mexico 87505*

July 31, 2016

Santa Fe County Planning Commission  
John Lovato, Senior Development Review Specialist  
c/o [Jennifer@jenkinsgavin.com](mailto:Jennifer@jenkinsgavin.com)

RE:

HEART'S WAY RANCH a proposed sober-living wellness retreat  
34 Sendero de Corazon, Santa Fe, New Mexico 87505

Dear Mr. Lovato,

Our long time friend, Susan Carter, is proposing to develop a sober-living wellness retreat on her property at 34 Sendero de Corazon in Santa Fe County. As her neighbors in La Barbaria Canyon and property/homeowners in the Overlook development, we are writing this letter of our approval and support for her retreat.

For more than thirty years, we have known Susan both personally and professionally and hold her in the highest esteem. Her educational background and business career accomplishments in public relations and executive management for national not-for-profit organizations are highly regarded and well known. While Susan's business achievements are essential ingredients for the success of Heart's Way Ranch, we would like to take this opportunity to share our knowledge of her sincere compassion to serve her community. We have watched Susan in the Dallas Fort Worth communities create volunteer opportunities for many to serve. She has a gift for building productive and meaningful alliances between community leaders and service organizations. This kind of resourcefulness and leadership from Susan will undoubtedly help connect Heart's Way Ranch residences with valuable service work for the needs of our Santa Fe community.

We hope you will consider, not only Susan's personal commitment to wellness and her passionate resolve to help others find wellbeing, but also her financial commitment to re-locate in Santa Fe and her desire to help build a noteworthy asset for Santa Fe and New Mexico.

May she be granted all necessary permits to pursue the development of Heart's Way Ranch

Respectfully submitted,

Cynthia Collins-Pridham and Bill Pridham

NBA-94

July 20<sup>th</sup>, 2016

Ref: Susan Carter – Heart's Way Ranch Program

Attn: John Lovato, Senior Development Review Specialist

Dear Mr. Lovato,

I have known Ms. Carter for some time, as a congregational member at the church I attend. She told me about her ideas to help women, and was kind enough to give me a tour of her home and property as she was planning the Heart's Way Ranch program in Santa Fe, New Mexico. I was so impressed with her idea and plans to reach out to women with special needs, that I wanted to write you and express my heart felt support for Ms. Carter, and support her endeavor to establish a sober-living wellness retreat at her property located at 34 Sendero de Corazon off La Barbaria Trail.

You may already know this, but Ms. Carter has told me that the clients of the Heart's Way project will have the opportunity to be involved with service projects throughout the Santa Fe community, and that her program will highlight the intrinsic value of lessons that come from caring for others. After being part of the Heart's Way Ranch program, women will be able to re-enter their lives with a firm foundation of recovery, a network of support, and a set of unique tools for living life wholly again.

I would encourage any decision makers, including yourself, who are concerned about the Santa Fe community, to get behind Ms. Carter's project by approving a county permit for her site development plan and a business permit concurrently. Our community is in great need of such a project. A unique property, like the Sendero de Corazon one, which possesses the assets needed for this project, is a rare commodity, let alone a person with the qualities, experience and desire for community service like Susan Carter to head it up.

Please strongly consider and approve any variances needed to get this project rolling by supporting Ms. Carter's project as soon as possible. If you have any questions, I will be glad to try and answer them. My contact information is below. Thank you for your consideration.

Sincerely,

Donald J. Converse  
3102 Plaza Blanca  
Santa Fe, NM 87507  
505-303-3477

NBA-95

Rev. Duchess Dale  
Santa Fe Center for Spiritual Living  
505 Camino de los Marquez  
Santa Fe, New Mexico 87505  
505-983-5022

20 July 2016

Mr. John Lovato; and/or To Whom It May Concern:

Hello,

Please accept this letter for consideration as you proceed with approving any variances and permits for the Heart's Way Ranch, wellness retreat property in Santa Fe, New Mexico.

As Susan Carter's minister here in Santa Fe, I feel I have a unique perspective in endorsing and supporting the sober-living and healing retreat center she has created for professionals in a recovery community.

The opportunity that Heart's Way Ranch is going to offer is invaluable to the women who are in need of a safe haven for their recovery and healing process. The beautiful environment and facility offer guests a chance to use yoga, art, music, meditation, healthy foods, and other modalities for ensuring a strong, vibrant and safe process. This will provide important re-entry tools, experiences and service opportunities that are necessary to success to return to today's workplace and society.

In addition, I can speak to the business acumen, personal understanding and amazing compassion that Susan brings to this program. Anyone who chooses to participate at Heart's Way Ranch as a recovery guest will be blessed by their experience there with Susan and Shari.

If I can be of further assistance or support regarding this project's success, please don't hesitate to contact me.

Blessings,

*Rev. Duchess Dale*

Rev. Duchess Dale

Senior Minister

RevDD@SantaFeCSL.org

NBA - 9/6



**From:** wendy Jordan <[wtjordan2@gmail.com](mailto:wtjordan2@gmail.com)>

**Date:** July 12, 2016 at 12:29:56 AM CDT

**To:** Willa Shalit <[willa@rtmld.com](mailto:willa@rtmld.com)>, Roger Ayres <[rogerbill8436@gmail.com](mailto:rogerbill8436@gmail.com)>, Jay & Katherine Shelton <[ishelton@newmexico.com](mailto:ishelton@newmexico.com)>, Adam Horowitz <[primordials@earthlink.net](mailto:primordials@earthlink.net)>, Catherine Joyce-Coll <[maxandcatherine@lobo.net](mailto:maxandcatherine@lobo.net)>, Dan Welch <[dojundw@icloud.com](mailto:dojundw@icloud.com)>, Deborah Dasburg Park <[rayanddeb@gmail.com](mailto:rayanddeb@gmail.com)>, Denez Lopez <[denezg@cs.com](mailto:denezg@cs.com)>, Katherine Shelton <[kakshelton@gmail.com](mailto:kakshelton@gmail.com)>, Ellen Souberman <[isoub@aol.com](mailto:isoub@aol.com)>, Gail Haggard <[plantsofthesouthwest@gmail.com](mailto:plantsofthesouthwest@gmail.com)>, James & Cathy Deuschle <[JKDeuschle@coxinet.net](mailto:JKDeuschle@coxinet.net)>, Otis & Kate Sinnott <[patagonia40@optonline.net](mailto:patagonia40@optonline.net)>, Michael & Melissa Peterson <[mpeters7@hughes.net](mailto:mpeters7@hughes.net)>, Richard & Laura Bank <[bank@cybermesa.com](mailto:bank@cybermesa.com)>

**Cc:** Susan Carter <[src12@me.com](mailto:src12@me.com)>

**Subject:** Re: Proposed retreat

Dear Neighbors,

It's obvious there is a lot of thought, discussion and concerns being presented regarding Heart's Way Ranch, the sober-living wellness retreat coming to the La Barbaria Trail neighborhood. In considering how to present MY thoughts about this, I decided to take a hike around the Dasburg property and up into the Santa Fe Nat'l Forest. As we entered the path, 4 mountain bikers were coming down the trail. The hikers and bikers come on our properties to enjoy the healing beauty of these mountains, fresh air, and sport. My understanding is that we welcome these folks, despite the fact that we occasionally find cigarette butts, trash, and sometimes noise is an issue.

So now we are considering Susan Carter's plan of having a well thought out, organized and regulated healing retreat for 4 to 6 women who will reside quietly, without vehicles, chaperoned when they have classes or service projects, whose intent is healing and recovery for four to six weeks at a time. These are not women who are entering a recovery program, these are women who will have already gone through recovery and are continuing to work hard to change their lives, and need & WANT to embrace a deeper level of psychological healing and spiritual awareness before re-entering their lives.

Professionally, I have also worked with people in recovery. These women would present much less risk to the community than people renting guesthouses up here for vacations in Santa

Fe. And I can't imagine a more beautiful gift than to share the healing energy of the mountains with a handful of women at a time... a gift we all enjoy daily because we are blessed to live here full-time.

I met with Susan and asked her about some of the concerns I've been hearing about... traffic and increased road usage, smoking, more garbage, etc. How impressive that Susan not only answers these questions, but has been so welcoming and accommodating as to invite all of us up to see the property, get to know her, keep the communication open and honest, and LISTEN to the concerns. I believe Susan and her business partner, who have stunning credentials in this field, will work hard to prevent or correct any problems that might arise as the result of their business.

Personally I welcome Susan and Heart's Way Ranch and I support her efforts to bring healing and spiritual awareness back to those who are seeking it.

Wendy Jordan

NBA-97

July 26, 2016

Santa Fe County Planning Commission  
Attn: John Lovato, Senior Development Review Specialist

Dear Mr. Lovato,

We're writing to support the issuance of road variances for the proposed Heart's Way Ranch business at 34 Sendero de Corazon, Santa Fe.

Certainly, when the County rezoned this area to include business use such as retreats, they understood that the roads here—including the primary access route La Barbaria Trail and private drive Sendero de Corazon—are unpaved, narrow, and in places, legal non-conforming.

We lived on the California Coast for more than 40 years; a region with very strict commercial development restrictions. Therefore, we understand, and even sympathize, with individuals who desire no growth in the areas they feel protective about. We've lived in earthquake and high fire danger communities so we understand concerns that first responders have in terms of saving lives where access is problematic. However, Ms. Carter and Ms. Scott are proposing a venture that has virtually no impact on the area's traffic volume in comparison to other ventures that are allowed under the County's zoning laws.

This nearly 40-acre "family compound" offered for sale late last year could have seen buyers who chose to use it for either private or public use. Who could know the type of traffic volume that would ensue? Many uses could have far exceeded Heart's Way Ranch's planned use of the property. Imagine the traffic influx if a movie ranch or a skating rink—both approved uses for that very parcel—were proposed instead. For private use, the property could easily accommodate up to 14 people living there full-time. Imagine if they all had cars and commuted to work every day.

Heart's Way Ranch will have 4-6 women maximum per month participating in the retreat program and none will be allowed to drive a personal vehicle on the property. Nearly all activities will be held on the property and traffic volume will be minimal in terms of cars frequently coming and going. What's more, the endeavor is a noble undertaking and brings a much needed value to our community.

It would be great if the original engineers had graded Sendero de Corazon properly. Why they didn't is a mystery and it's interesting that no one has complained about its steeper grade until now, when a business has been proposed. To bring that road to compliance by changing the parcel's grade in the two disputed areas is nearly impossible now, and would tear up the land in a way that could negatively impact the environment and wildlife. The variances should be granted without delay.

Sincerely,

Jain Lemos & Sandy H. Miller  
40 Craftsman Road  
Santa Fe, NM 87008

NBA-98

John Lovato  
Senior Development Review Specialist  
Santa Fe County

July 22, 2016

Dear Mr. Lovato,

It is with great pleasure, and without reservation that I write to support the opening of Heart's Way Ranch in Santa Fe, New Mexico. I have personally known and admired Susan Carter for over 40 years and have professionally known Shari Scott for over 20 years. Shari is a well-known, well-regarded mental health professional in the Dallas community with whom I have collaborated toward the benefit of women, children, and families numerous times. She is a skilled clinician and will bring only the highest quality and utmost care to the women who she plans to serve at Heart's Way Ranch. Susan's development expertise, having been the former Chief of Staff for Susan G. Komen, combined with Shari's clinical expertise, makes for a balanced and comprehensive program that will serve small group of women seeking wellness and healing in the beautiful Santa Fe area. As former Director of a large, private nonprofit Family Therapy Program in Dallas, I fully and completely support and endorse this incredible gift to the women whom Heart's Way Ranch will serve as well as the community of Santa Fe.

I have had the great pleasure of visiting the property on several occasions and find the roads to be fully accessible, and very well maintained. It is my understanding that the current casitas will transition from having fulltime residents to a small number of visiting retreat participants. This should result with an actual reduction in passenger traffic on the road.

Heart's Way Ranch has my full, heartfelt and complete endorsement.

Sincerely,

Ann Reese, LCSW, LMFT  
3005 Monte Sereno Dr.  
Santa Fe, NM 87506  
214-662-1467

NBA-.99

38 Camino Tortuga  
Santa Fe, NM 87505  
July 16, 2016

Santa Fe County Planning Commission  
Attn: John Lovato, Senior Development Review Specialist

Dear Councilors:

After having thought, discussed, and prayed over the issue of changing the course of Sendero de Corazon road and knowing that it has been successfully driven-over for years past, we, Sandra and Ken Rowley, agree giving Susan Carter the two variances to keep it as it now exists. The labor, cost, disturbance of the terrain, and the time to make the changes will delay her efforts to enact a new paradigm to help women, who have already gone through rehabilitation from substance abuse, to reenter life in meaningful and successful ways. The goal is self-realization: to learn who they really are and to have the power, presence, and persistence to live meaningful, constructive lives. The women whom Susan intends to serve have previously led very successful lives, and, after a long "sleep" (similar to Rip Van Winkle's), have awakened, with rehabilitation already accomplished, to a world with major changes. This program will allow them to become whole persons again, equipped to reenter society, live fulfilling and meaningful lives.

This new approach that Susan Carter is instigating has the potential to revolutionize effective, lasting, and full recovery. Heart's Way Ranch and the center will create a new paradigm that furthers necessary change and is vitally needed for women.

Sincerely yours,  
Sandra K. Rowley  
Kenneth C. Rowley, M.D.

NBA-100

July 12, 2016

To John Lovato, Senior Development Review Specialist  
Santa Fe County

Re: Heart's Way Ranch

Dear Mr. Lovato,

I am writing with enthusiastic support in favor of Heart's Way Ranch. It has been my pleasure to meet both Susan Carter and Shari Scott and to have met several other people involved with other sober living facilities. I believe the vision Susan and Shari have for this new and inspired residential center is of tremendous value to Santa Fe.

Santa Fe is well known for its wide variety of alternative wellness programs and practitioners. The Heart's Way Ranch promises to add a layer of sophistication to women seeking a new way of living in the world in a sober, mindful and thoughtful manner.

In my opinion, the smallness and exclusivity of the program proposed by Heart's Way Ranch creates no threat to the community at large or to the neighborhood immediately around the Ranch, located at 34 Sendero de Corazon. It is my understanding that the proposed clientele, both as occasional visitors and as residential users, would be less than had previously been the case when several full-time occupants made several daily round-trip visits to the address in question.

I have no doubt there are several forcefully vocal naysayers to this project who fear for the safety of the neighborhood and the traffic concerns on La Barbaria Trail. Heart's Way Ranch is to be a place of contemplation and healing, not a party house. It will be made up of sophisticated women, who, for various reasons, find themselves in need of kindness and support during the reshaping of their lives.

I am pleased to offer my support to Heart's Way Ranch and hope that the county will do the same.

Sincerely,

Karren Sahler

4146 Big Sky Road  
Santa Fe, NM 87507  
505-501-1385

NBIA-101

John Lovato  
Senior Development Review Specialist  
Santa Fe County

July 22, 2016

Dear Mr. Lovato,

I am a long-time resident of Santa Fe and have known Susan Carter and Shari Scott for over 40 years. I can without reservation speak to their high standards, service to the healthcare fields, and their dedicated volunteerism.

I support the proposed women's retreat and view it as a real feather in Santa Fe's cap as a much needed service to women who seek a first-in-class, step down program. On several occasions I have visited the property and find the existing driveway in excellent condition and appropriate to the mountainous environment. It is my understanding that there will actually be a net "reduction" in road traffic, as the casitas will no longer have the current fulltime renters versus the occasional visiting clients. This will result in a reduction of road noise and overall traffic. It is for these reasons that I endorse this contribution to the community without reservation.

Please feel free to contact me directly if you have any further questions at 214-662-1570.

Sincerely,

Roger A. Said  
3005 Monte Sereno Dr.  
Santa Fe, NM 87506

NBA-102

**From:** [jshelton@newmexico.com](mailto:jshelton@newmexico.com)

**Date:** July 8, 2016 at 3:07:09 PM MDT

**To:** Adam Horowitz <[primordials@earthlink.net](mailto:primordials@earthlink.net)>, Catherine Joyce-Coll <[maxandcatherine@lobo.net](mailto:maxandcatherine@lobo.net)>, Dan Welch <[dojundw@icloud.com](mailto:dojundw@icloud.com)>, Debby Park <[rayanddeb@gmail.com](mailto:rayanddeb@gmail.com)>, Denez Lopez <[denezg@cs.com](mailto:denezg@cs.com)>, Ellen Souberman <[isoub@aol.com](mailto:isoub@aol.com)>, Gail Haggard <[plantsofthesouthwest@gmail.com](mailto:plantsofthesouthwest@gmail.com)>, James Deuschle <[JKDeuschle@coxinet.net](mailto:JKDeuschle@coxinet.net)>, Jay Shelton <[jshelton@newmexico.com](mailto:jshelton@newmexico.com)>, Kate Sinnott <[patagonia40@optonline.net](mailto:patagonia40@optonline.net)>, Mike Peterson <[mpeters7@hughes.net](mailto:mpeters7@hughes.net)>, Richard Bank <[bank@cybermesa.com](mailto:bank@cybermesa.com)>, Roger Ayres <[rayres8436@aol.com](mailto:rayres8436@aol.com)>, Susan Carter <[src12@me.com](mailto:src12@me.com)>, Willa Shallit <[willa@maidennation.com](mailto:willa@maidennation.com)>

**Cc:** Katherine Shelton <[kakshelton@gmail.com](mailto:kakshelton@gmail.com)>

**Subject:** Proposed retreat

Neighbors:

Re Susan Carter and Shari Hugh Scott proposed retreat at the former Craig Lofton property

I've been on a quest the last few months to better understand this situation. I am not for or against their proposed use of the property until I have more information.

To learn more about the legality of such land use, I went to the County website to look at the new county "code" – the Santa Fe County Sustainable Land Development Code, adopted in December 2015 (<http://www.santafecountynm.gov/media/files/ClickableSLDC.pdf>). I discovered that this new code looks very different from the old one. Under the old code, almost no commercial enterprise was allowed up here. I and perhaps others up here automatically thought that of course a retreat business must be illegal, because we had the old code in our minds. I discovered that in the new code, many many types of businesses are a "permitted use" in our Rural Fringe zone, including, believe it or not:

- Animal hospital
- Assisted living facility
- Bed and Breakfast inn
- Camps, camping, and related establishments
- Churches, temples, synagogues, mosques, and other religious facilities
- Commercial greenhouse
- Day care center
- Fitness, recreational sports, gym, or athletic club
- Medical clinics
- Movie ranch
- Produce warehouse
- Retreats
- School or university (private)
- Skating rink
- Solid waste collection transfer station
- Stables, commercial, any number of horses
- Zoological park

NBA-103

I'm embarrassed I did not follow the code development process more closely over the last few years – I had no idea there was such a shift in allowed uses of land up here.

As I understand it, being on this list does not automatically mean approval, as there are other general requirements, including, I think, water, fire safety, traffic, noise..... Perhaps those hurdles are, in reality, what restricts activities up here.

But this list seems to me to weaken the case against the Susan and Shari proposal, since the new code appears to allow (and perhaps even encourage) economic development generally. We may not like any increased traffic up here, but many other permitted uses might have a larger impact than Susan and Shari's proposed retreat.

In general, I find it useful to consult primary sources when possible. That is why I went to the county code. And that is why I have spoken directly with Susan a few times, and have had informative and pleasant conversations. You might want to do the same. My impression is that she would care about and be responsive to neighbor concerns.

For me, the key question is legality. If the proposed use is clearly legal, I'm inclined not to fight it; if it is clearly illegal, it will fail. If the legal situation is gray, maybe we can work together on the issues of greatest concern.

My main points are 1) that the new code seems to change the context of this proposed use, and 2) I urge direct communication amongst everyone involved.

Jay

NBA-104



July 21, 2016

I, Anna Speth, own 17+ acres that join the land owned by Susan Carter.

I urge you to grant the two variances that Susan Carter is requesting. The Wellness Center is not only undeniably needed, but would be of great benefit to the Santa Fe Community. It is an innovative program and service that would put our community on the map for helping women successfully re-integrate into society. Susan Carter not only has the vision to create The Wellness Center in a manner that meshes with the lifestyle of our community, but she has the knowledge and professionalism to sustain the benefits to our community and the women she serves. It would be an injustice to Santa Fe and many if she is not granted these variances in order to continue her work with The Wellness Center.

Thank you,  
Anna Speth

A Petition, I wholeheartedly support the proposed Heart's Way Ranch Retreat and urge Santa Fe County to approve the requested driveway variances. Retreats are permissible in the Rural Fringe zoning district and this proposal is appropriate and welcome in our immediate and surrounding neighborhoods.

	Name	Address	Zip Code	Telephone	Signature
1	Audrey Ault	7317A OSFT, SF	87505	670-7911	Audrey Ault
2	Don DeVito	42 Veneda Seaman	87509	698-1868	Don DeVito
3	DIANE SPRANDE	153 AVE PONDOSA	87535	699-6421	Diane Sprande
4	My Aunt	7408 B Old SF, Tex	87505	577-0648	My Aunt
5	Stephene Ault	7408 B OSFT	87507	505-514-5630 E.S.	Stephene Ault
6	Kelly Ault	7317A OSFT SF	87505	670-8824	Kelly Ault
7	Lucie Harbly Wynn	114 La Placita Cir	87505	860-2481911	Lucie Harbly Wynn
8	SHERIE STIVER ZINN	105 MATEO J	87505	730-4105	Sherie Stiver Zinn
9	DAE Stiver ZINN	DO "	" DO	" DO	DAE Stiver ZINN
10	Anne Sides	72 Double Arrow Rd	87505	982-0582	Anne Sides
11	Hampton Sides	72 Double Arrow Rd	87505	982-0582	Hampton Sides
12	ANDY BARTLETT	14 Cam. Cuenca Sabie	87505	984-8760	Andy Bartlett
13	Lowell Bartlett	14 Cam. Cuenca Sabie	87505	984-8760	Lowell Bartlett
14	MRS. J. BANCHE	14 Cam. Cuenca Sabie	87505	984-8760	Mrs. J. Banche
15	ALAN BALL	PO Box 4403	87502	470-7153	Alan Ball
16	Way Sheridan	PO Box 9026	87504	690-4333	Way Sheridan
17	Pat Brown	2218 Cam. Rancho Sierra	87005	409-1203	Pat Brown
18	Jama Fontaine	1448 Nevada Ridge	87501	238-1300	Jama Fontaine
19	Robert Green	223 N Guadalupe	87501	699-3260	Robert Green
20	J. J.	1543 Escondida St	87507	699-0465	J. J.
21	Colin Murphy	1307 Lejano Ln	87501	699-4793	Colin Murphy
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A Petition, I wholeheartedly support the proposed Heart's Way Ranch Retreat and urge Santa Fe County to approve the requested driveway variances. Retreats are permissible in the Rural Fringe zoning district and this proposal is appropriate and welcome in our immediate and surrounding neighborhoods.

	Name	Address	Zip Code	Telephone	Signature
1	Patricia Cross	1916 Thomas ave	87505	505 438-1337	Patricia Cross
2	Paul Cross	1916 Thomas Ave	87505	505 438-7287	Paul Cross
3	Patricia Barrera	P.O. Box 532	87560	(505) 780-1625	LORENZO BARRERA
4	Patricia Barrera	133 Kearney Rd.	87501	505 491-0698	Patricia Barrera
5	John McEwan	PO Box 9550	87504	946-8475	John McEwan
6	Michael Simon	PO Box 6666	87502		Michael Simon
7	GARY McGinnis	526 ONATE PL	87501	982-3916	GARY McGINNIS
8	Ellen Robina	13 Palentine Rd	87506	231-5056	Ellen Robina
9	Tina S. Cantrell	900 A Avenida SW	87501	530 907-7061	Tina S. Cantrell
10	DENNIS KENSIL	9 CLOUDSTONE DR	87505	501-3630	Dennis Kensil
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**TRANSCRIPT OF THE  
SANTA FE COUNTY  
SLDC HEARING OFFICER MEETING**

**Santa Fe, New Mexico**

**August 25, 2016**

I. This meeting of the Santa Fe County Sustainable Land Development Code Hearing Officer meeting was called to order by Santa Fe County Hearing Officer Nancy Long on the above-cited date at approximately 3:00 p.m. at the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

**Staff Present:**

Penny Ellis-Green, Growth Management Director  
Vicki Lucero, Building & Services Manager  
Tony Flores, Deputy County Manager  
Mathew Martinez, Building & Development  
Andrea Salazar, Assistant County Attorney  
Jose Larrañaga, Case Planner  
Victoria DeVargas, Fire Prevention

**II. APPROVAL OF AGENDA**

Hearing Officer Long approved the agenda as published which included a tabled item.

**III. PUBLIC HEARING**

- A. **CASE # V 16-5150 Hearts Way Ranch Variance:** Heart's Way Ranch, Susan Carter, Applicant, JenkinsGavin, Design & Development Inc., Agents, request three variances of the Sustainable Land Development Code (SLDC) to allow a retreat facility consisting of two casitas, a yoga area, and a main residence on 39.5 acres. The Applicant requests a variance of Chapter 7, Section 7.11.6.6 to allow the grade of the approach at the intersection to exceed 5 percent, a variance of Chapter 7.11.2, Table 7-13, to allow the overall grade of the driveway to exceed 10 percent in three separate locations in order to get to the casitas and main residence, and a variance of 7.11.2 Table 7-13 Local Road Design Standards to allow access from offsite roads that do not meet Code requirements. The 39.5 acre property is located at 34 Sendero de Corazon, via La Barbaria Trail within Section 9, Township 16 North, Range 10 East, Commission District 4, SDA-3.

Hearing Officer Long read the case caption and introduced Mr. Larrañaga who is presenting for Mr. Lovato.

MR. LARRANAGA Thank you, Hearing Officer Long. The property is a 39.57 acre tract within the Rural Fringe Zoning area as defined by Ordinance 2015-11, Sustainable Land Development Code, Chapter 8, Section 8.6.3. Appendix B of the SLDC designates a retreat as a permitted use within the Rural Fringe Zoning District.

The Applicants agent submitted an Application for a Site Development Plan, to request a retreat. It was discovered after submittal that the approach to the intersection exceeds grade requirements of 5 percent for 100 linear feet, and the grade of the driveway is 17 percent-21 percent in three locations. Permits were obtained in 1994, for a driveway with grades up to 14 percent. The approval was granted in accordance with the Extraterritorial Zoning Ordinance which allowed for grades of 15 percent. However, the driveway was not constructed to the approved plans. Therefore, variances are requested

Building and Development Services staff has reviewed the Site Development Plan for compliance with pertinent SLDC requirements. The driveway grade of 5 percent for 100 linear feet upon an intersection and the overall driveway grade to get to the casitas and main residence exceed the required grade of 10 percent, and offsite roads do not meet the 20 foot driving surface. La Barbaria Trail is a base course surface with a minimum width of 9 feet and a maximum width of 18 feet. The driveway that accesses the site is 14 feet in width with a base course surface and has pull out locations. Improvements were done for fire protection to include pull outs, and two 10,000 gallon water storage tanks with a draft hydrant that was placed at the main residence.

The Applicant addressed the variance criteria as follows:

1. Where the request is not contrary to the public interest.

The variance is requested for an existing private driveway and this is not contrary to the public interest. The driveway will be used primarily by the property owners for access to the single family residence at the top of the driveway. There will be four to six retreat guests that access the two casitas and provide overnight accommodations. In the past, full time tenants have rented the guest homes. Additionally, installing an automatic fire suppression system in the casitas and workshop will be in the public interest. The property owner implemented driveway improvements and the driveway is well constructed and in the context of the steep terrain which minimizes slope disturbance.

2. Where owing to special conditions, a literal enforcement of the SLDC would result in unnecessary hardship to the Applicant.

Special conditions exist that the subject lot comprised of steep terrain and reconstruction of the driveway would cause scarring of the hillside. The previous owner worked in collaboration with the County Fire Marshall in effort to conform to safety standards. Reconstruction of the driveway to the SLDC standards would result in unnecessary hardship to the Applicant.

3. So that the Spirit of the SLDC is observed and substantial justice is done.

Maintaining the existing driveway is consistent with the SLDC as stated in Section 1.4.2.20: "Ensure that building projects are planned, designed, constructed and managed to minimize adverse environmental impacts." The driveway was constructed to minimize adverse environmental impacts, while satisfying the requirements with emergency access and life safety.

Staff Response: Although tenants have moved in and out of the casitas, this area is in an Extreme Wildland Fire Hazard Area. During inclement weather, and on slopes in excess of 10 percent, emergency access may not be possible due to the severity of the steep slopes. The structures will be utilized as a retreat center, and the use may increase tenants which can increase traffic use. Chapter 14, Section 14.9.7.4, Variance Review criteria states, Where, owing to special conditions, a literal enforcement of the SLDC will result in unnecessary hardship to the Applicant. The road was not constructed per approved plan, but road design standards have changed since that time, and the Applicant is now requesting to change the use from residential to non-residential. Staff acknowledges that it would be difficult to widen the road width, reduce the road grade or widen these areas without disturbing large amounts of 30 percent slope, and causing visual scarring.

Fire Review Comments:

- Fire is requiring that roads shall meet the minimum County standards for fire apparatus access roads of a minimum 20 feet width. Roads, turnouts and turnarounds shall be County approved and all-weather driving surface and un-obstructed vertical clearance of 13-feet 6-inches within this type of proposed development.
- The Driveway /fire access shall not exceed 11 percent slope and shall have a minimum 28 foot inside radius on curves.
- The entrance gate at the top of Sendero Del Corazon shall be set to open further to allow for the increased turn and radius into the Casita B driveway.
- Due to the potential access issues and remote location of this project, for life safety and property protection this office shall require the installation of Automatic Fire Protection Sprinkler systems meeting NFPA13R requirements in the Casitas A and B.
- This development location is rated within an extreme Wildland Hazard Area and shall comply with all applicable regulations within the SFC Ordinance 2001-11, EZA 2001-04 as applicable for the Urban Wildland Interface Code governing such area.
- This project shall also have a vegetation management plan as required by the Urban Interface Fire Code 2001-11. This plan shall be submitted in advance for review and approval.

The Applicant addressed the variance criteria as follows:

1. Where the request is not contrary to the public interest.

The request is not contrary to the public interest. La Barbaria Trail is an existing local roadway which has been serving the vicinity for several decades. As stated in the variance criteria answers above, Hearts Way Ranch will be used by the property owners and their guests to access the existing residence and casitas.

2. Where, owing to special conditions, a literal enforcement of the SLDC will result in unnecessary hardship to the applicant:

The Local Road classification calls for two 10-foot wide driving lanes. As stated above, La Barbaria Trail lies within a 20-foot easement. The width of the easement, as well as the area's exceptional steep terrain, render it impossible to widen the road. A literal enforcement of the SLDC would result in unnecessary hardship to the applicant by essentially rendering access to Hearts Way Ranch an impossibility.

3. So that the spirit of the SLDC is observed and substantial justice is done.

This Variance request is intended to allow for a locally owned business with requisite zoning to move forward and commence operations. As stated above, Hearts Way Ranch is proposed sober-living wellness retreat center, which is permissible use in the Rural Fringe

Zoning District. The request therefore observes the spirit of the SLDC as stated in Section 1.4.2.11: Accommodate within appropriate zoning districts, regulations for protection and expansion of local small businesses, professions, culture, arts and crafts including live/work, home occupations and appropriate accessory uses in order to support a balanced, vigorous local economy.

Staff Response: Although the proposed use is permitted in this zoning district, all requirements of the Sustainable Land Development Code shall be met. La Barbaria Trail is a private road that does not meet the road standards of the Sustainable Land Development Code. La Barbaria trail is required to have a minimum of a 20-foot driving surface with two lanes that are 10 foot each, a 50 foot right-of-way, and adequate drainage. Many locations of La Barbaria Trail are 9 feet in width at minimum and 18 feet in width at maximum. There are limited areas that may allow for road width to be increased due to adjacent drainage and steep slopes in excess of 30 percent. The grade on this offsite road meets Code requirements and the road is in good condition.

Recommendation: Staff recommends denial of the Applicants request for a variance of Chapter 7, Section 7.11.6.6 to allow the grade of the approach at the intersection to exceed 5 percent, a variance of Table 7-13 to allow the grade of the driveway to exceed 10 percent, and a variance of 7.11.2 Table 7-13 Local Road Design Standards to allow access from offsite roads that do not meet Code requirements.

Staff requests the Hearing Officer memorialize findings of fact and conclusions of law in a written order. The Santa Fe County Planning Commission will be holding a public hearing on this matter on September 15, 2016. I stand for any questions.

HEARING OFFICER: Is there any planned new structures as part of this application?

MR. LARRAÑAGA: Hearing Officer Long, no, they are using the existing structures.

HEARING OFFICER: And there was a reference in your report to the driveway being constructed in 1994; was that by a prior owner of the property?

MR. LARRAÑAGA: Hearing Officer Long, I believe so. It was permitted but it wasn't constructed per the permit.

HEARING OFFICER: And also in your report when you're addressing La Barbaria Road it is stated that the grade on the road meets code requirements and the road is in good condition; is that correct? So it is just the width that is not adequate?

MR. LARRANAGA: Hearing Officer Long, that is correct.

HEARING OFFICER: Okay, thank you. All right, who will be speaking for the applicant? Anyone else? I can have you sworn in along with Ms. Jenkins?

[Those wishing to speak were during sworn.]

HEARING OFFICER: And if any of you do come forward to speak if you would just let me know so that it will also be on the record that you have been sworn in because there may be some others we'll need to swear in that didn't stand up at that time.

All right, you may proceed.

[Duly sworn, Jennifer Jenkins testified as follows]

JENNIFER JENKINS: Thank you, Ms. Long. My name is Jennifer Jenkins with JenkinsGavin and also I'm going to make a few other introductions here on behalf of Susan Carter and Sherry Scott. This would be Susan Carter and this would be Sherry Scott. This is Colleen

Gavin, also with JenkinsGavin. Gary Friedman, our counsel and Morey Walker with Walker Engineering. Everybody is here to answer any questions at any time.

So I have a brief presentation just to go over some salient points. Is it okay if I approach?

HEARING OFFICER: Yes.

MS. JENKINS: I'm going to put this one up first. So just to assist in kind of orienting where we are. Down here is Barbaria Road that comes off of Old Santa Fe Trail and that is a County road. It's a public road. And then at this point we get into the private portion of La Barbaria Trail. La Barbaria Trail is a private road within a 20 foot ingress and egress easement that the road is over 30 years old in that condition and as Jose said it's got very gentle grades that do comply with code and it is actually in excellent condition and I have some photos I can share with you about that.

As you wind in on La Barbaria Trail this outline in green here is the subject property. It is about 39.5 acres and at this point in the southwest corner La Barbaria Trail kind of continues this way and this would be Camino Tortoga so this is kind of the proverbial fork in the road and the Camino Tortoga comes up and serves some properties north of the subject and then it ends right around here. And then off of Camino Tortoga is the driveway that serves the subject property. And what we have, as Jose also said, we are proposing no new construction as part of the application for the retreat center. Commensurate with these variance request we have been running a parallel path for an administrative site development plan request that has been through the review process with County staff. So the site development plan for the retreat use, that processing is essentially wrapped up but it is subject to approval of the requisite variances.

So this is an existing workshop that will be remodeled to be kind of a yoga/art space – a gathering space of the guests. These are two existing casitas. Two bedrooms each and this is at the top of the driveway a 3,600 square-foot, this is the primary residence. And so the variance request before you are for the existing La Barbaria Trail and it's to note that, yes, the road has been here for over 30 years. A lot of subdivisions and a lot of building permits were approved by Santa Fe County with this road as access. So I would make an argument that this would be considered a legal non-conforming situation with respect to La Barbaria Trail.

The driveway Sendero de Corazon was permitted in 1994 under the EZO and at that time the maximum permissible grade at a driveway was 15 percent. The building permit at that time shows the maximum grade of the driveway at around 14 percent. Currently, there are a couple of spots where the driveway is about 17, a little over 17 percent and there is one spot, a short stretch, where it is at 21. So there have been significant improvements made to the driveway by the previous owner. My client has owned the property for less than a year and so the previous owner did significant improvements which I will point out – as I drop my board.

So the improvements include several elements one of which is on the driveway there are three very significant pull-out areas. What the fire department requires is 14 feet wide for driveway is acceptable and we have a 14-foot wide driveway. But when you have a longer driveway they want to make sure they have pull-out areas so in the event an emergency vehicle needs to access the property and people are exiting the property vehicles can pass one another. And so there are three significant areas which are easily depicted on the site plan but you can also see them here on the aerial. The previous owner actually worked with Mr. Gilmore from the County Fire Marshall's office to implement these improvements. To make the property as safe as possible recognizing we are in a somewhat remote mountainous terrain area. And in addition you can see right here these two little dots, these are two 10,000 gallon water storage tanks with their sort of by a draft hydrant that serve as a supplemental fire suppression system on the property.



As a condition of approval for this request the Fire Department is also requiring that the casitas be retrofitted with automatic fire suppression, sprinklers on the interior of the casitas. So interestingly, with the approval of this request, we are actually going to be improving and increasing the life safety measures that are already in place on the property.

So this is the site plan and you can see here this is the little existing workshop, these are the casitas, the driveway comes up, there is the first pull-out area, the second pull-out area for vehicle passing, here's the third and then there's a turnaround at the top of the driveway and again there are the storage tanks. I have a few photos for you to refer to. So the photos are numbered on the coversheet there so you can see at what point in the driveway the photo was taken and then the second batch of photos is of La Barbaria Trail itself. And La Barbaria Trail also is equipped with several pull-out areas to support vehicles passing one another where the roadway does narrow up somewhat because of the adjacent terrain.

And, also, as staff noted in their application, if this driveway was to be brought up to County standards we would be in here asking for variances to disturb 30 percent slopes, maybe to have retaining walls that exceed the maximum allowable height. I think it's important to recognize the environment we're in and this driveway is a very environmentally sensitive driveway that relates to its environment. So imagine that if we came in and said, Oh, we want it make it 20 feet wide and we want to make it 10 percent, I mean, just the level of disturbance and the loss of vegetation and the amount of scarring that would be implemented on this property would not be desirable by anyone.

So the key is that we have an existing driveway that was built under a different set of rules at the time. Significant improvements have been made and the key is when we talk about health safety and welfare what is in place here? I can tell you that this property has more fire protection measures than any other property in the vicinity in addition to the 20,000 gallons of water storage we will be retrofitting fire suppression in the casitas. So we are addressing those life safety concerns through those measures and we, again, all of these improvements were made in collaboration with the County Fire Marshall's department.

With respect to – as I mentioned we submitted a site development plan for Hearts Way Ranch to the Land Use Department which is a retreat use that is a permissible use within this rural fringe zoning district and I just want to touch on a little bit about the programmatic qualities of what is proposed. There has been a lot of misinformation floating around about what is proposed and Susan and Sherry have made a concerted effort, they have reached out to every single one of their neighbors in this community – been very transparent and very forthcoming about what they're proposing for the property. This is not a treatment center. This is a retreat for women who have already been through recovery treatment and need a place to develop better life skills before they return to their homes and their regular day-to-day life in order to ensure that they continue their healing and continue their recovery in a positive environment that they want to create here. Historically, the two casitas on the property were rented full time to full-time residents. And so— so basically, we have three dwellings on the property. Under typical traffic standards three dwellings would create 30 vehicle trips a day, back-and-forth, back-and-forth, back-and-forth, back-and-forth. So we're going from full-time residents in those casitas to part-time retreat guests that will not have vehicles. They will be guests on the property without vehicles. Any trips into town will be done as a group. So often any change of use is characterized as an intensification of use and I agree that in some instances that is the case but that is not the case here. It is actually, quite the opposite.

Santa Fe County Planning Division recommended approval of this application because of the negligible traffic impacts.

Lastly, there is a letter in the staff report from the Graeser McQueen law firm that we have a little bit of concern about because it represents that it is representing the wishes of the La Barbaria Trail Association. The reason that we are concerned about that is because my client has no knowledge of the La Barbaria Trail Association, its bylaws, its membership, its rules and regulations. We have no documentation as such that was available in her title search when she acquired the property and I have a letter that has been notarized that I have been asked to read in the record by Anna and Ken Spaeth who adjoin the subject property directly to the north and access their property via Camino Tortoga. So with your indulgence I would like to read that into the record and I have a copy for you as well.

HEARING OFFICER: I've got a copy of that.

MS. JENKIN: Is that the same one?

HEARING OFFICER: Yes.

MS. JENKINS: *Dear members of the Santa Fe County Planning Commission we, Anna and Ken Spaeth, own just over 20 acres contiguous to the north side of Susan Carter's property. We were surprised to learn that Chris Graeser and Catherine Joyce Coll were representing the La Barbaria Trail Road Association. We know there was a road maintenance agreement drafted in 1990 with an amendment in '93 but were unaware there were formal or legal association every established. We were never polled or asked if we were in favor or not of a proposed wellness treatment being established by our immediate neighbor. Because of this, we find it disingenuous that anyone is speaking on our behalf. With this in mind, we question what funds are being used to pay the legal fees to oppose the variances on behalf of the said association.*

*We share the easement in question and support the variance application. We also support the driveway variance application due to the improvements made by the previous owners. Finally, as per Anna's previous letter submitted on July 21<sup>st</sup> we are in full support of the retreat being proposed by Sherry Scott and Susan Carter. Again, it is an enhancement to both our neighborhood and the Santa Fe community.*

And, lastly we have 15 letters of support most of which I believe are in your packet along with 31 signatures on a petition. And in closing I would like to just touch on some of the elements of the intent of the Sustainable Growth Management Plan as well as the Sustainable Land Development Code. There is specific language about supporting local, small businesses especially ones that have low impact or supporting home-based businesses. In Section 3.1.1 of the SGMP it says, Need for appropriate business services and support for small business and home businesses. Small businesses are an important aspect to the local economy. Support, in Section 3.1.2., support and encourage local and small business.

This is the reason retreats are permissible anywhere in the County is because they are seen first as a quasi-residential use by the very nature of them. And we're dealing with properties that were built and existed prior to the adoption of the new code. I would find it challenging that there would be much of anything that can happen in Santa Fe County without some need for variance in accordance with the new more stringent code requirements. The key is, is the property properly suited and are there are appropriate measures in place to ensure the safety of the residents and the guests and I think we have demonstrated that there is.

With that, Susan Carter has a few words and then we would be happy to stand for questions and I would like to reserve the right for rebuttal prior to closing the hearing, thank you.

HEARING OFFICER: All right. I have a few questions that maybe you can answer first.

MS. JENKINS: Of course.

HEARING OFFICER: The casitas will have how many residents each?

MS. JENKINS: So the maximum they could have in them would be three each. There are two bedrooms. One of the bedrooms is a little larger. So the maximum could be three guests per casita. In our report we said four to six women at any given time could be residing in the casitas.

HEARING OFFICER: So they will not be utilizing the main house?

MS. JENKINS: No. The main house is – Susan and Sherry have a home office in the main house and so that's why we are creating the community room where the workshop is because that's where any – where the women gather together will primarily be happening in the workshop space that is being converted.

HEARING OFFICER: Will there be any other activities planned on the site other than the women that will be staying there? Will there be any day usage by others?

MS. JENKINS: No, no day usage by others, no.

HEARING OFFICER: And how about people come in to deliver any services? Yoga teachers, counselors, --

MS. JENKINS: Yeah, there could be – yeah, you know, this has really been this is our first step. So some of the programmatic elements are being developed but there may be an occasional yoga teacher or there may be an occasional art teacher. They may engage in – the residents themselves may engage in gardening on the property. You know some of these programmatic elements are being developed to support the intent of the program.

HEARING OFFICER: Okay. Let me ask you about the fire review comments that are in the staff report.

MS. JENKINS: Yes.

HEARING OFFICER: The first one says, Fire is requiring that roads shall meet the minimum County standards for fire apparatus access roads of a minimum 20 feet in width.

So that you can't –

MS. JENKINS: Hence the variance.

HEARING OFFICER: Now the second part of that says, Roads, turnouts and turnarounds shall be County approved and all-weather driving surface and un-obstructed vertical clearance of 13-feet 6-inches; are you able to provide that?

MS. JENKINS: Yes. Yeah, because we worked with the County on designing those turn outs and those turnouts do meet the Fire Marshall's standards and we don't have any vertical clearance issues.

HEARING OFFICER: And then the second one says that, the Driveway fire access shall not exceed 11 percent grade in slope and that you are exceeding but then the second part says shall have a minimum 28 foot inside radius on curves; do you have that?

MS. JENKINS: Most places. There are a couple of little spots, as part of the condition of approval that we will be widening out the turning radii in a couple of spots. We did several site visits with the Fire Marshall's department and identified a couple of areas where they felt the turns were a little snug so prior to finalizing the development plan and obtaining a business license there are a couple of spots where we will need to make some improvements on the turning radii.

HEARING OFFICER: You will increase that?

MS. JENKINS: Yes.

HEARING OFFICER: And then the third one is the entrance gate at the top of Sendero Del Corazon shall be set to open further; are you able to do that?

MS. JENKINS: Oh, yeah, the gate. There's just some vegetation behind the gate they just it to open a little wider, so yeah. That's not a problem.

HEARING OFFICER: Okay, and then the next one is installation of automatic fire protection sprinkler systems in Casitas A and B and you've done that.

MS. JENKINS: We haven't done that but that's a condition of approval

HEARING OFFICER: But you will. Okay.

MS. JENKINS: So those will be installed prior to issuance of any business license.

HEARING OFFICER: And then the fifth one, states that this development shall comply with all applicable regulations because of the area being rated Wildland Hazard area.

MS. JENKINS: Vegetation management, yes. So we'll be doing an inspection on the vegetation management prior to business license to determine if there's any thinning of vegetation that close to the structures. A fair amount of that was already done by the previous owner but we'll be doing an inspection with that particular staff person that implements those provisions and we will do a site visit with them to determine where we potentially need to thin some vegetation.

HEARING OFFICER: So that ties into the last one that it be a vegetation management plan.

MS. JENKINS: Exactly.

HEARING OFFICER: Okay. Let me see if there's anything else. Okay, that's all for now. Thank you.

MS. JENKINS: Thank you very much for your attention.

[Duly sworn, Susan Carter testified as follows]

SUSAN CARTER: I just briefly wanted to introduce myself and Sherry Scott, the applicants. Sherry, could you please stand up for just a second please. This is my business partner, Sherry Scott. I am Susan Carter. Sherry and I have known each other for 42 years. We met in college as sorority sisters at Texas Christian University. I just wanted to give you a little background on Sherry. She has been – I'm going to introduce her first. She spent her life as a caregiver and public servant from early in her career risking her life as an RN, as a care-flight neonatal intensive care nurse, continuing her education to become a therapist and working with law enforcement and human service agencies. She has had an extensive career in managing cases of child abuse, family domestic violence, providing counseling and rehabilitation to sex offenders and victims of human trafficking. Sherry also managed to run the pediatric psychiatric division and center for pediatric eating disorders at Children's Medical Center in Dallas, one of the top pediatric hospitals in the country and the fifth largest health care provider in the nation.

Now, having a Ph.D. in family counseling and being a nurse practitioner in psychiatry, Sherry has chosen to dedicate her time working in the ER of the county's -- one of the counties, our county in Dallas serving the medically underserved. She also teaches those who want to become those that want to become a nurse practitioner and then she operates a private practice.

I have come from the world of non-profits. So I've had the privilege of being a founding employee of Susan G. Komen for the Cure, breast cancer organization. I ran – I had the privilege of having a front row seat in the fight against breast cancer and ran all their marketing and branding for over 20 years. So we created the pink ribbon and that was kind of an amazing experience for me in addition to the Race for the Cure series.

Following that I served as the CEO of the Arthritis Foundation South Central Region and served the people in Texas, Oklahoma and New Mexico. I left that position in September of last year and I wanted to do what my friend does, Sherry, I wanted to be on the front lines and I wanted to be helping and I wanted to be hands-on. Thus we got together and we starting thinking what is the real need out there. We discovered through Sherry's work as a counselor that women who go through treatments have a real serious need for aftercare once they leave treatment in a sober living environment. There are very few facilities that exist where women can go to come home to themselves in a way that they never knew they could. You can take away the drink and you can take away the drunk but until you get to the heart of the issue of the problem and you really help those women learn what those issues they're going to continue numbing out. And so we want to bring women to a healing environment to a place that we feel women will feel safe and comfortable and be given the tools that they need so that when they go home they won't have that need to numb out and Santa Fe offers that for us.

We found this property on La Barbaria Trail on Sendero de la Corazon and we found this property. The owner as everyone has testified today has put in these amazing improvements to make this property incredibly safe and healing for his wife who happened to be suffering from severe rheumatoid arthritis and I think when he found out what I was doing with the Arthritis Foundation and then he heard what Sherry and I were planning to do he was very invested in helping us make this work. Once we found out that the zoning, you know, that this was going to be a zoning issue in December we, you know, put all the due diligence into looking at the property to make sure that it was going to go through way before we would ever consider buying the property. When we found out that the zoning did actually take place, the rezoning, and that it was, in fact, going to be a permitted use, we did decide to put a contract on the property. And it was a dream come true because the owner was able to convey all of the furnishings and everything to us in this amazing healing facility that we believe to be Hearts Way Ranch.

I am just beyond excited with the opportunity to be able to do it and I just hope that these variances don't come into play to block what we feel can be a lifesaving endeavor for a lot of women.

Just to give you a brief -- again, reiterating what Jennifer said, it's a recovery residence. It's for four to six women who have come out of treatment they literally come to us to find, you know, a way to come home to themselves in a way they never knew they could. We are basing it on four spiritual tenets of the Zia Sun symbol. And those tenets are a strong body, a clear mind, a pure spirit and the dedication to the well-being of others. Which means they each have to have a service commitment in the community. So we will be making sure that those four elements are integrated into the daily schedule of each woman, you know, through our programs. And then reiterating what everybody said too, they will not have vehicles. They will be traveling to and from town as we do. And they will be with us at all times. And, again, the previous use of the property was for long-term tenants.

So you know, Hearing Officer Long, we hope that you will not let these variances stand in the way of the healing work that we hope to do on this amazing property in La Barbaria Canyon. We feel certain that we will not disturb or cause disturbances of any kind to our neighborhood. As a matter of fact, we hope to bring neighborhood collaboration as well as economic development and philanthropic service to not only the neighborhood but to the greater Santa Fe community.

Thank you so much for this opportunity.

HEARING OFFICER: Thank you. Let me ask you a couple of questions. It sounds like you've done a lot of homework and I'm sure analysis and studies not only from your

many years in these fields but maybe also specific to Santa Fe, how long will the women be staying, the four to six women?

MS. CARTER: It's all based on what their clinician, that they're be treating, you know, who refers them to us and their clinician's conversation that they'll have with Dr. Scott, Sherry Scott. And they will have that conversation and as that woman heals, you know, that will just be determined. I mean sometimes it could be 30, 60, 90 days sometimes even more.

HEARING OFFICER: And do you expect to draw from the Santa Fe area, the northern New Mexico area or is it broader than that?

MS. CARTER: It is broader than that. It would be – it really truly is referrals from probably treatment centers. Treatment facilities that are looking for the types of facility that we have. Also given the type of personnel that we have with Sherry's background being a nurse practitioner in psychiatry is something very unique to a somber living house when you've got women you might, you know, need medical oversight as well. So, you know, that's a real benefit in our place and not to mention that Santa Fe in and of itself has such a – offers such a healing environment and so many amazing practitioners in this area.

HEARING OFFICER: Thank you, it was good to hear that presentation.

MS. CARTER: Thank you.

MS. JENKINS: So that concludes our presentation. I did one to point out one thing that I overlooked previously and then I will sit down.

So as you can see here, you see little stickers, those – this as outlined in green here as I pointed out before is the subject property, and the stickers indicate residents who wrote letters of support. So as you can see very contiguous letters wrote letters of support for the application. That was the purpose of the stickers so I just wanted to point that out.

HEARING OFFICER: Thank you. All right we will proceed with the public hearing by asking if there is anyone here who would like to speak in support of the application for variance. I know that we had the letters and the petitions as well that have been received in the record but there is a gentleman here. Would you come forward, please, sir. And please state your name and address for us and then whether you've been sworn in.

KENNETH ROWLEY: -- Rowley, 38 Camino Tortuga, Santa Fe, New Mexico, 87505.

[Duly sworn, Kenneth Rowley, testified as follows]

MR. ROWLEY: I'm a little hard of hearing and I'm going to have to talk loud so feel like I'm yelling at you –

HEARING OFFICER: That's fine.

MR. ROWLEY: -- but I want all of the people to hear what I have to say. I think it is a very, very important thing for us to consider and so I'm directing this to you and I am also directing it to my neighbors. Something has happened here that probably shouldn't have. Anyway, this is a story of what is happening in our backyard. Why, such efforts to avoid a good thing happening. I'm Ken Rowley. I'm a retired gynecologic oncologist. I have lived in Santa Fe County 24 years. I live besides Susan Carter and Sherry Scott. The work I did as an oncologist was to take care of very ill women patients with cancer. These women were so sick they spent most of their times in hospitals and doctors' offices. So involved with their illness they became lost from their lives and the world they live in.

Now after therapy and with remission or cure, they had many different feelings: guilt, unworthiness, inadequacy, lost of self respect, unable to meet the world, the list could go on and on. And for those who have cared for cancer patients know what I mean. Now many of these

feelings the cancer survivors go through are very similar to the addict who survives another life threatened disease. They have been through therapy and now they need our help. Yes, we are our brothers' keepers. Yes, we help them to forgive themselves for being an addict. Yes, help them reconnect with society. Yes, help them not to fear but to love. Yes, help them to realize they are one of the creator's, one with the creator and daughters of the creator. If you were to know Susan and Sherry as I know them this is their mission. There are many other problems these women have and most of these are known to both Susan and Sherry because too they have suffered the misadventure of addiction. Maybe that is why they are so driven to help their crippled sister.

For any e who continues to be against this divine venture I recommend go out into our wonderful forest, sit on a log, be very quiet, and ask yourself why? I personally feel that the mission of these two women is wonderful and they were attracted to do it here in La Barbaria Canyon on sacred land a sacred endeavor. It was no mistake.

I would never want my grandchildren, all 13 of them, to know I was an obstruction to something I believe is god's will. This home for six or fewer women is not a place of active treatment for substance abuse. It's a place so beautiful and peaceful, just two blocks down from heaven where the activities are not drug therapy. People are mistaken. They think it's that. But it is how to recover the soul.

But we do have a problem right here on La Barbaria Trail if you already living here speed up and down the road, brains saturated and bellies filled with alcohol they don't see anything wrong with that. Yet there are some of the people against Sherry and Susan influencing certain neighbors; why it is misinformation. I've read some of these letters and I know. Susan and Sherry two wonderful people. Not treating disease but helping women in small numbers, only four to six people at a time find their way back after a soul wrenching experience just three little variances to combine the use of a private road, the best maintained road in La Barbaria Canyon, that in 20 years of existence has never had an accident. Many times I've driven or walked that road in snow, rain, sunshine and never had any difficulty. A road that has very little vehicular traffic and will have less since the two other casitas will not be rented, only occupied by women who don't have cars.

Ma'am, I ask that you recommend these three variances knowing much good will come from it.

This whole La Barbaria episode reminds me of a story about the man called Jesus and how it applies to Susan and Sherry. First, the people did not understand Jesus' message and what he was about. Sounds a little familiar doesn't it? Fearing what he was doing – fear, fear that's the worst thing and our fear turns into hate. Hated that fearing that what he was doing and they hated and they hanged him on a cross. Hopefully, we people of the 21<sup>st</sup> century can do better. Let's not make the same mistake. Let us feel honored and proud that we can be helpful as Susan and Sherry usher in – it's a new paradigm. This is all new stuff and this is important stuff because this may be a way in which to help recovering people or those who have swayed to return and recover their souls.

So what I said in this little ditty: If you don't understand, Oh what a pity. Maybe you'd be happier living in the City.

Thank you very much and I hope I've given a little different slant to it and it will help some people to stop and think why all of this crap. I don't believe the variances are – we're bringing on situations to try and stop a paradigm that will be very important to this whole country.

HEARING OFFICER: Thank you. Thank you for your comments.

MR. ROWLEY: Thank you.

HEARING OFFICER: All right is there anyone here who would like to speak in opposition to the – you're in support? Okay so everyone who wants to speak in support why don't you stand and you all can be sworn in. All right come on forward.

[Duly sworn, Roger Said, testified as follows]

ROGER SAID: My name is Roger Said and I live at 3005 Monte Sereno Drive, here in Santa Fe. And some four years ago my family and I chose to move from the flat land in Texas and the prairie to Santa Fe partially for the mountainous beauty but also I think everyone here has spoke to today at some level to the healing quality of Santa Fe and I just wanted to make two quick points and then I'll move on.

One is that I have traveled the road both the public La Barbaria Road as well as the private La Barbaria Trail on several occasions in two-wheel drive vehicles and found no issues with maneuvering to drive safely. And this is also coming from somewhat who also didn't drive the mountains very frequently. I was very comfortable with it and found it to be very well maintained and I also know that they have contracted with a snow plow provider that on snowy days that there is automatic service of the road for the snow issues. I don't really see a safety issue from that perspective.

We built a house in Santa Fe when we moved some four years ago, and this was my introduction in building in extreme elevations and steep climbs and I learned a lot. And I also had to go through a variance with the traffic department and also with the Santa Fe Fire Department to meet the codes and I learned quite a bit about that including installing sprinkler systems to meet a variance for the same purpose. I had a steeper incline that required some accommodation and we installed fire suppressant sprinklers and made some other adjustments working with Fire Chief Gonzales and I think that where there's a need there is a way to work out differences.

In terms of a need, I've known Susan Carter for over 40 years and can speak to her high integrity, her volunteerism and her sincere intent. And I've known Sherry Scott for 25 years and know of her professional background. It would be – if Santa Fe wanted this type of facility they would have trouble recruiting this type of talent to conduct what they're doing and I can say without reservation they're doing it for the right reasons. And, finally, I would like to say that if this is a healing city, a healing environment, then this is the type of environment that you want to create. Thank you.

HEARING OFFICER: Thank you. All right, come forward.

[Duly sworn, Ann Reese, testified as follows]

ANN REESE: My name is Ann Reese and I live at 3005 Monte Sereno Drive, Santa Fe, 87506. And I moved her with my husband who had just spoke a minute ago three or four back from Dallas. And I wanted to say that because it gave me the great good fortune and opportunity to know Susan Carter who I have known for over 40 years as we grew up together and went to high school together. I'm a marriage and family therapist and a licensed clinical social worker from Dallas. I ran a family therapy program for a very large private non-private and through that work came to know Sherry Scott who I've known over 20 years and I can speak her unbelievable expertise and the regard the community has for Sherry is indescribable. She is a skilled and gifted clinician with a wide variety of clinical skills so knowing Sherry's clinical expertise and Susan's development and non-profit expertise and working from the heart I give them my highest, highest endorsement and know that they will be an incredible asset to the community as well as to the country. As a therapist I often had difficulty finding after treatment programs, retreat centers for women to continue their recovery. So again, my highest endorsement, Thank you.



HEARING OFFICER: Thank you. Okay, I thought I saw some other hands. You can come forward, ma'am.

GORDON HARRIS: Hi there. Gordon Harris. I live at 191 Overlook Road, Santa Fe, New Mexico 87505 and I have not been sworn.

[Duly sworn, Gordon Harris, testified as follows]

MR. HARRIS: William Gordon Harris. I've lived in the neighborhood, sort of La Barbaria Canyon neighborhood since 1997. I'm very familiar with a lot of the houses there, the residents, they are my neighbors and the road systems there as they interconnect and as we all drive them. In addition, I am a volunteer for La Canada Wireless Association. We are a 501 (c) 12 non-profit, volunteer-run internet service provider. We provide internet services for underserved rural portions of the County of which La Barbaria Canyon is one. Most of the folks you are both for and against the applicant on this issue actually have internet service by virtue of the fact that I've volunteered and climbed on their roofs and set up internet service for them.

This experience doing this volunteer work has give me an appreciation for the road systems there and I can tell you that from my personal perspective as a neighbor, La Barbaria trail and Tortoga and the driveway going to Susan and Sherry's property is actually the envy of many of the other residents that live in adjacent homeowner associations including my own, the Overlook Homeowners Association. The road is actually in very good shape and having driven it quite a bit I feel that I am in a position to attest to that.

Additionally, even though I am not an adjacent neighbor, I am close enough that I can actually see all of the buildings on Sherry and Susan's property from my deck. So I'm close enough to that. In my interactions with Susan helping her get the internet at her property I was very, very favorably impressed by her integrity and her thoughtfulness. And to that extent, as a neighbor I have no qualms whatsoever running the sort of enterprise that she's proposing to run there, and, in fact, I feel a certain amount of pride that she has chosen our area in which to connect this enterprise and to offer this help. So, I am unequivocally in favor of this applicant's petition.

HEARING OFFICER: Thank you. Okay, ma'am.

[Duly sworn, Sandra Rowley. Testified as follows]

SANDRA ROWLEY: I'm Sandra Rowley and I live at 38 Camino Tortoga and have lived there for 19 years and our property – I'm the wife of Ken Rowley – our property does border on Susan and Sherry's property. So we are neighbors. And I have known Susan since she moved in in January and she's been a wonderful, wonderful neighbor. And I just wanted to say that I read a letter in opposition in their variances and their coming there. And I know that the people that wrote this letter live in our neighborhood are new members of the road association and they don't even know Susan. They have never been up the road. They've never been to her house. They don't know anything about her and so therefore some of the things that they say are misinformation that they have received. They have received misinformation. And, I was – Catherin Coll who is now the chairman of the association she did for many years it was a co-chairman and we had a man that was the co-chair and now both of those people have left. And they were always in charge of the road maintenance. And, no, I was – I was – Catherine Coll called me a few months ago and wanted to know if I knew what they were going to do with their property, my neighbor, and I said, yes, I certainly did and I support it. I welcome it and I will do anything I can to help them. I think it is a very good thing for our neighborhood and she quickly said, Oh, okay, goodbye. So I'm not represented by attorney Graeser and Catherine Coll and the road commission. I have not paid my dues for two years and the reason I have not is because they don't – Catherine Coll since she doesn't have the co-chairman anymore, the man, we just cut

down trees. There's a great fear in our neighborhood of fire so we have fire remediation and that's where our money goes and we have plenty of money to keep up our road and have but now we're cutting down trees and it's all going – not all, but most of it is going to fire mitigation. So, I'm not paying for that. This is not what – this is not why our association was formed for. We're a road maintenance neighborhood association to keep our road up. So if we want to have it go fire mitigation then maybe another association should be formed. So I pay the man who is in charge of keeping up the road who is also a member of the association.

The other thing is that just some of the things are just misinformation and I feel really bad about it and I know where it comes from and I just want to in my closing remarks say a few things that there's misinformation. This man and one don't even know Sherry. I don't even know who they are. We don't have meetings anymore. It's – the owners of Hearts Way Ranch do not even pay for the maintaining of La Barbaria Road they only moved her January. We haven't had any maintenance this year at all. The other thing, some of the words they used are just misinformation and it just makes me really sad because we're a wonderful community and I don't like to see us split with each other over things like this. This person calls their venture an inappropriate commercial use, commercial venture, an alcohol treatment facility, a sober wellness retreat, which is irrelevant to the variance. While I think what Sherry and Susan are going to do is not irrelevant to what the variance I think it should be approved. Proposed rehab they call it. Furthermore, this is a dangerous attempt by applicants to cloak themselves and their proposed facility in an altruistic endeavor to benefit society – a commercial venture, proposed clinic, this is not a charitable institution, and you should not be swayed by the applicants' characterization of their business of as being somehow for the benefit of mankind and not for the benefit of their own pocketbook in order to make it – you know we don't know, we don't know the motivations of any other person. We don't know their heart. This person seems to – doesn't even know them, know what all of their motivations are. I mean I've been married to my husband and it will be 60 years in March of next year, I don't know his heart.

HEARING OFFICER: Ma'am, are you reading from one of the letters in the packet?

MS. ROWLEY: Yes.

HEARING OFFICER: Okay, so I've got that. You don't need to read it.

MS. ROWLEY: Yes, all right. You've got that. So then I want to speak to the increase in the road. I think we made the point that it is not going to increase traffic on our road and I want to say that I have lived her 19 years and I've lived there with the casitas being there and rented out and the last person who rented out one of the casitas it was like she had all of her relatives, her family, everybody visited to her because they wanted to visit Santa Fe. We had so much traffic we were like downtown Santa Fe because she was like a hotel for all of her family. We had a lot of traffic and the other person that rented the casita was very quiet and had a job here and worked a lot.

The other point I wanted to make is that, the applicants are far from acting in good faith; they are acting in good faith. Nothing has been spoken to today but when – I just want to say that I am not – Mr. Graeser and Catherine Coll are not representing me and they are not representing the La Barbaria Trail Association because, as they say they are, because there are many of us who are members and neighbors who do not – who do support this variance.

HEARING OFFICER: Okay, thank you, ma'am.

MS. ROWLEY: Oh, may I say one other thing?

HEARING OFFICER: Yes.

MS. ROWLEY: I just want to say something about the natural. It's very beautiful out there and it's very mountainous and nature is very meaningful to me and I just wanted to quote something that Albert Einstein said, Look deep into the eyes of nature and everything will make sense.

HEARING OFFICER: Thank you, ma'am.

[Duly sworn, Jain Lemos, testified as follows]

JAIN LEMOS: My name is Jain Lemos, and, yes, I was sworn in with the group. And I just wanted to say that my address is 40 Craftsman Road, here in Santa Fe. I've been working with Susan and Sherry over the past six months and going up to the property on a weekly if not daily basis during that time so I've seen the roads in quite a few different weather conditions. The roads are just beautiful there and within Susan's property the roads are beautifully maintained and I know that she is putting in a lot of her own resources to make sure that the trees are always trimmed, brushes always cleared – I mean, there are landscapers that take care of it. It's really a beautiful road. I've never had any problem trying to pass someone. I think maybe once somebody had to maybe back up at some stretch on the road but it's really a very lovely property.

I understand, having lived in areas where there is earthquake and fire danger in California and it is important that the Fire Department can get out there but I think as everybody has pointed out here, especially their team here, we're doing everything that we possibly can to make sure that all of that is mitigated with all the steps that need to be taken and we really want to make sure that everything is done so that life saving is the number one priority there. That's really key.

Also, I just want to point out that the property was advertised as a family compound and these casitas are 16 square foot casitas each so even though there is two bedrooms and only three beds in each one as Susan and Sherry have configured it for their retreat, any other people who just bought it as private citizens and not to run it as a business could have had quite a few people there, I mean I think easily, 12 to 14 adults could live on that property and let's say each one of them had a car and each one of them drove to work each day, each one of them had friends visiting – I mean, you could have so much traffic on that road without it ever having to be a business.

I think it was zoned for this type of usage, in fact, other zoning allowed could be a skating rink or a movie ranch and could you imagine if somebody was trying to put a movie ranch in that location. You know, it would just be outrageous in terms of the traffic and impact on the road. This is very very low impact and I think you know so somebody built the road why back when a little too steep, it's kind of a mystery as to why that was ever granted. Maybe it was old rules but the pitch is steep in a couple of places but I think a variance could easily be granted to given the circumstances. Thank you very much.

HEARING OFFICER: Okay, thank you.

[Duly sworn, Liz Sheffield, testified as follows]

LIZ SHEFFIELD: My name is Liz Sheffield and I live here in Santa Fe, 17 Camino Delilah. I had the privilege working with Sherry and Susan in finding the perfect place for their somber living environment and I've never met two people that have such ultimate and intense respect for.

I'm a real estate agent and I've been on every road in the city and county and that's a fantastic road and I also want to speak of my person experience with the nature of alcoholism. My partner was an alcoholic and – she went to rehab and they wanted to her to go to a place like this and there was no place to go. They wanted her to reinvent herself. To be around sobriety and

support and she ended up coming back home here in Santa Fe and – so I know personally that a thing like this could help people. She died –

HEARING OFFICER: I'm so sorry.

MS. SHEFFIELD: -- because of a lack of support. And I just can't say how much something like this would mean to me and other people who have gone through this experience.

HEARING OFFICER: Thank you. Thank you for sharing that.

MS. SHEFFIELD: Thank you.

HEARING OFFICER: Okay, who do we have here today who would like to speak against this application? Mr. Graeser, okay, why don't you come forward first. I assume you may be speaking for some others that are here today, but they can let me know that.

CHRISTOPHER GRAESER: Thank you, Hearing Officer Long. Christopher Graeser, 316 East Marcy. I'm speaking on behalf of the La Barbaria Trail Association, which is an incorporated association through the direction of its chairperson, Catherine Joyce Coll.

I don't know Susan Carter. I don't know Sherry Scott. I don't know the work they do. It sounds beneficial. It sounds needed. That is not why we are here. We're here to discuss La Barbaria Trail, Camino Tortoga Sendero de Corazon and code requirements.

The roads don't meet current road standards. The lots of there would never be allowed to be platted now. You wouldn't be allowed to build those roads now. Jennifer mentioned that La Barbaria Trail in particular should be seen as a legal non-conforming use. I can see that analogy, of course, it is black-letter land-use law that legal non-conforming use are discouraged and they shouldn't be expanded. And here the expansion is, moving this property from a residential use to a non-residential use. There are a lot of people that live up there now and they deal with the roads but we don't need to make them worse.

Let me talk about some specifics. The first one is notice. The requirement of the code is that the notice be visible from a public road and the posted notice was not. It was posted on the property visible perhaps from Camino Tortoga but from the nearest public road which is La Barbaria Road. So it did not meet notice requirements from that perspective.

The second deficiency in the notice is that the notice board, it's in your packet at NBA 45, describes two variances. The request is for three variances. The third one being a variance for the road standards. That is not listed on the notice board. So it doesn't meet the notice requirements.

Madam Hearing Officer, I have submitted I have submitted a detailed letter. I know that you have read it. I don't want to belabor it. I want to hit the high points because they are important. The purpose of the road standards is to "provide for the safety for both vehicles and pedestrian traffic." They quote from the Sustainable Land Development Code. And this is not old law. This is adopted within the last year. This isn't simply a series of dimensional variances such as increased height, diminished setbacks, things are typically more aesthetic. These are variances from safety criteria which should be given the utmost scrutiny.

I go through the legal requirements for granting a variance. I know that the public interest here is particularly compelling given the fire danger exacerbated by current inadequate emergency vehicle access. And the requirement for you to grant a variance is to find that this is in the public interest and diminishing safety certainly is not. The applicant's variance letter focuses almost entirely on the driveway variances not addressing the other variances. I don't think you can make a determination if you don't know what you're giving a variance to. Is the variance to the slope, the first variance, the first slope variance; is it de minimis? Is it significant? What are the slopes that are out there now versus what is required? You're simply not given that information in the packet.

The more problematic criteria for the applicant is unnecessary hardship. This is a term of art. It is defined in New Mexico case law and a primary focus is whether this parcel is distinguishable from other properties subject to the same zoning restrictions. And test, this comes from Powell quoted in the Downtown Neighborhood's case, the test is whether because of the differences the owner will be deprived of a reasonable return on his or her property under any use permitted by the existing zoning classification. The answer is a resounding no, Madam Hearing Officer. First of all there's no differences. There's no testimony there's any differences. In fact, I take that back, there was testimony there's differences today and what that testimony was is how nice the onsite driveway roads are versus other roads in the vicinity and that goes in the very wrong direction to grant the variance. The only difference is this property is closer to conforming. That certainly doesn't render it subject to unique circumstances under any use permitted by the existing zoning classification. That use includes residential which is the current use, historic use, the use the property was listed for sale for, it's the use that was the current use when the decision to pay for the property – what the applicants paid for it was made, and it continues to be the appropriate and reasonable use. There is no interference with reasonable use of the property. There is no interference with obtaining a reasonable return from the property having bought it as a residence and continuing to be able to use it as a residence.

The owner testified that they did all their due diligence but I'm sorry that simply is not true. The requirement, the 10 percent road requirement is from County code. The 11 percent road requirement is from the 1997 Uniform Fire Code, it's been around for 20 years, the 20 foot width, the 11 percent grade, 1997 Uniform Fire Code has always applied and it clearly applies in the County. And it was represented from the Fire Department here who will confirm that requirement applies to Camino Tortoga, La Barbaria Trail, and to Sendero de Corazon. So due diligence was not done. Simply assuming because it is allowed by the zoning classification like the ice rinks and whatever else was talked about doesn't get you past the hurdle of all the other requirements in the code particularly safety requirements for access.

The application letter, my response letter addresses the first two variances and they have subsequently added a third variance. The code requirement is a 20 foot road on a 50 foot right of way. What we have now on La Barbaria Trail is a 20-foot right of way with a road as narrow as 9 feet, this is in the staff report. As narrow as 9 feet, nowhere greater than 18 feet.

I've submitted a letter from the prior captain of the Fire Department explaining the problem with the narrow width is then not only can fire trucks not pass out there but people trying to get out away from a fire create a bottleneck that fire trucks can't get in and this area is in an extreme fire danger area.

HEARING OFFICER: Are you saying the third variance that your letter doesn't address that was added is the width of the road?

MR. GRAESER: Correct. Width of the road and width of the right-of-way. The requirement is a 20 foot road on a 50 foot right-of-way with no more than 11 percent grade – sorry, 11 percent on the Fire Code and 10 percent on the County Code. And those requirements are not met significantly on a road that goes down as low as 9 feet.

So you got a lot of letters, you got a petition, you got testimony from folks and I think two things impress me about those letters and testimony. One is how passionate they are for the work that Ms. Carter and Ms. Scott do. The second is how irrelevant their testimony was to granting a variance to fire code and county code restrictions. It's worth noting that there were only three people in all of that comment who live in the area and will be subject to this on a daily basis. The

rest are people interested for one reason or another be they high school friends, church friends, college friends, etcetera.

And, of course, Hearing Officer, we are not opposed to the work being done. It seems like a needed service to – I won't go there as far as some of the comments, the biblical references, but we are absolutely not opposed to this work. The problem is doing this work in this location violates County code and it violates safety standards.

Addressing a couple of the comments that were made: Ms. Jenkins said it was important to recognize the environment we are in. As you'll see by Mr. Chilton's letter from the fire department, the environment we're in is extreme fire danger environment. There's a lot of discussion about how the impact is going to be less than what it was residential. There's no traffic analysis for us to know that and I've suggested that it is required by County code but one hasn't been submitted. Ms. Jenkins said the analysis for you is the property suited for this use and I will submit that is not the analysis. The analysis is the Code and case law required variance analysis with which I know that you're familiar.

The variances aren't blocking lifesavings endeavors. What's blocking that is deciding to engage in this business in an area that the Code doesn't allow you to engage in it. And I'll take issue with the comment that you need a variance to do this anywhere in the County. That's clearly not the case.

I think that's most of what I have to address. I do encourage you to confirm with the representative of the Fire Department that the slope width requirements do apply throughout the access roads there and there are numerous instances in which they don't. Like I said, the entirety of La Barbaria Trail violates the 20 foot requirements. If you look at the plans and profiles that are in your packet for the driveway and see how many of those are above 10 percent and how much length is above 10 percent, it's a significant portion. It looks to me over half going up in the twenties, double the allowable slope.

The roads don't meet the standards. They can't be improved without getting a variance to improve them. We ask that you leave a bad situation as is and don't allow it to be exacerbated. Support staff recommendation. Support the Fire Department recommendation. There has been nothing in the testimony today that addresses the continuing lack of evidence in the record supporting the variances. Thank you.

HEARING OFFICER: Okay, thank you. Let me ask you about the association because we've heard some dissention from people in the area who are ostensibly members of that association. How did the association arrive at its position against the granting of the variances? Was there a member meeting called? Did the board vote on it and how many members are on the board?

MR. GRAESER: I don't know the answer to that. Ms. Joyce-Cull can probably address that but I think it would be unusual to define an association that everyone agrees.

HEARING OFFICER: Okay, thank you. Okay, ma'am.

CATHERINE JOYCE COLL: I'm Catherine Joy Coll and I have been the neighborhood chairman for probably a little over 10 years. The neighbors – and I'll just try and cover a few little things that came up very quickly.

HEARING OFFICER: Ma'am, would you please give us your address.

MS. COLL: 83 La Barbaria Trail.

HEARING OFFICER: All right and have you been sworn in?

MS. COLL: No.

HEARING OFFICER: Okay, let's do that.

[Duly sworn, Catherine Joyce Coll, testified as follows]

MS. COLL: The neighborhood association was founded before Tortoga Road was actually developed. So now of the people there are legal members of the association. I think there are 18 association members. You have a letter that I wrote on behalf of the association. Some of it is open land, four pieces are just raw land including the piece, the space here and I want to address that next, presumably owned.

So the Road Association, I took a telephone poll which is the way we do many things to vote on this and the vote was unanimous to oppose it with the exception of Ken and Sandra Rowley who spoke in favor today and one other couple that live below the Sheltons. Jay voted to protest it and then met Susan and came over to my house and said I don't want to upset anybody, I'm not going to take a position and he did write a that is in your packet and he ended his letter by saying, if it's illegal to put it there then it shouldn't be there and if it's legal I guess I support it and then they promptly left town. So Jay just wants to get along with everybody and he and Katherine always have.

So that's how we came by this. Now, I think someone, Sandra or someone suggested that the road association money was going to pay our lawyer, Chris, who is my lawyer and also the association's lawyer and that is untrue. The neighbors have been contributing \$250 lumps which so far have covered all of our legal fees. We can by law use association money but we haven't had to do that and we fought another development several years ago and won and the neighborhood paid all of those legal fees also. We have never touched association money.

Now as far as the Tortuga people go, they were up there before my husband and I bought our house but they had always paid road dues and Sandra, you're wrong, you did pay last year.

[Speaking from the audience Ms. Rowley stated that she did not.]

MS. COLL: Yeah, you did.

HEARING OFFICER: Ma'am, let's not get into a dialogue with the audience. Ma'am, please, please let her speak.

MS. COLL: That property has been problematic for the owners for some time. The Starkes owned it and they did a lot of road work and Rick was retired and enjoying and he had a lot of heavy equipment up there and we became good friends with them. So I asked him if he'd like to be co-chairman and supervise the road work and I would do everything else, the newsletters, the banking, the fire mitigation and that is the way that we did it. And then they sold the house to the Loftons and Rick called me and said that the new owners, he thought, would be happy to help with the road stuff because Craig said he was going to do a lot of driveway work and have heavy equipment up there. So I called Craig and he agreed to. So for three years they handled the road grading. And the Rowleys are always difficult to get dues from and so I had asked Rick when he was co-chairman to call them and get their check which he did and after Craig [sic] did I asked Craig to call and get it which he did. So that is how that evolved. I have been the road chairman through the whole thing. I have actually tried to get rid of three times and nobody else seems to want it. At the moment, Cathy Deuschle, the new owners of 7 Owl Creek that wrote a letter that you have, Cathy has agreed to be co-chairman and help with whatever comes up. So, I have Cathy's help.

Now as far as this letter from the Spaeths goes, I've never heard of these people and I think neither has anyone else in the neighborhood. They own a parcel adjacent to the Rowleys and Sandra told me four or five years ago that it came up for sale and they bought it. And she told me they bought it with difficulty but now they had 27 acres. So that was the last I heard. That woman

has never paid dues. There's no building of any kind on that property. They live in Colorado. They have nothing to do with anything here except that they're relatives of the Rowleys.

So that's all of that now as far as fire goes, we've had meetings with the last five fire chiefs on fire mitigation and the problems and all five of our past fire chiefs have told the whole neighborhood association that it is quite likely that in case of a catastrophic fire, fire trucks will not be able to get up our road. In fact, I gave Jose and Chris has a copy of the letter that Chief Chilton wrote and then the current chief whose name I've forgotten for the moment wrote a letter confirming that everything Chief Chilton wrote was right. This is Hondo Fire Department. And right now their protocol says if a wildland fire starts in La Barbaria Canyon then the trucks are to go to the end of the pavement which is 1.25 miles in on La Barbaria Road and they are not to go further unless they feel it is safe and exercising due caution. Now, all five of those chiefs have told us that it is highly unlikely that a truck will be able to get up La Barbaria Trail. There has been two fires there and what they did was park a water truck at the foot of the road, one was lightning and one was ashes, at the foot of the road and they got those pickup size trucks and hauled water up. Now I know they have tanks at the Sendero property the problem being you have to hook a fire hose to those tanks. They do have a hose nozzle thing on them but that won't make enough water to stop anything but maybe a small yard fire. Unless you can get a truck up there you don't have giant nozzles to actually put out a fire. So it was fine to put all of that in but it's not going to help if there's a fire and the trucks can't get up. We've been told that we'll have to shelter in place up there and you're more than welcome to call the fire chief and verify all of this. I'm not only not exaggerated it, I'm understating it. We all know we can die up there and we've all laid awake worrying about it.

I think that what Susan and her partner are trying to do is worthy and no one in the neighborhood has questioned the worthiness of this project. What we're questioning is its appropriateness to a wildland area with a narrow road, wild life all over the place, the road is not well maintained – oh, Sandra brought up what we do with the road. This year, four people haven't paid dues yet and every year the road grading is done in the fall after the monsoons which wash out big gullies and there are huge gullies this year. We will be plowing it as always in the fall and then the fire mitigation we haven't started yet. We divide up the dues that come in. Half for fire mitigation and half for road work. Our firefighters who always do our fire mitigation and are wonderful have been in California all summer fighting wildland fires there. So they will be back. They prefer doing it in cool weather because the sparks from the chainsaws can set off fires in the summertime. So the cooler the weather and the higher the humidity the safer the fire mitigation is. So the road gets dealt with and so does the fire mitigation. And I think, I think that was all I have. Is there anything else?

HEARING OFFICER: No other questions, thank you.

MS. COLL: Thank you.

HEARING OFFICER: Okay, who else wanted to speak? You, sir, over here and I think there is one other.

[Duly sworn, Richard Bank, testified as follows]

RICHARD BANK: Richard Bank, 6 Owl Creek Road, Santa Fe. Our property, I believe part of our property is adjacent to the property in question if it's not adjacent it's very very close.

I have no problem nor does my wife with the work that the two women are proposing to do but we also think that it is inappropriate for the location that they want to do that work. And so I



don't want to say anything negative about what they want to do but I do sort of want to object to the process that we're going through here in some ways.

We're here because a residential something that was designed to be residential is being transformed or converted to something commercial and it is for that reason that these variances are being requested. There must be probably other variances or exceptions that are going to have to be made when you transform a residential structure to a commercial structure. I'm thinking – I built my own house so I am familiar with this. I should also note for the record that we've lived in our place which we built ourselves with our own hands for 30 years. So we are the second longest tenured residents of La Barbaria Canyon. We've been there a long time. And I'm familiar with all the codes and all of the stuff that I had to do to build my own house. Electrical codes are much more strict for commercial structures. Plumbing codes, waste codes, kitchen codes when you're serving food to people who aren't owners or tenants. So what I would like to see is all of these issues brought together at one time so that the extent, the total extent of the exceptions being made if they are to be made are known.

HEARING OFFICER: Sir, I don't believe there are any other variances or exceptions that County staff has identified other than these road and driveway variances.

MR. BANKS: Well, there has already been mention of the fire stuff and you're assuming that has been –

HEARING OFFICER: That's part of the variances for the roads and driveway.

MR. BANKS: Okay, well, okay, that part of my stuff, I guess, can go away. I would like to address the issue of fire as well. When you have full time residents as either owners or tenants they are typically familiar with where they are living and know the dangers and have – and that knowledge becomes second nature to behavior. Ken Rowley said what we should all do who are opposed to this development is go sit on a log and thing. Well, what flashed through my head that someone staying on this, in this treatment facility or retreat facility is going to do that. They're going to walk out into the forest which is adjacent to this property and they're going to sit on a log and they're going to take out a cigarette and we're all going to die. And this person is from Vermont and if they're from Vermont and they go out in the forest and they spoke a cigarette and they throw it, they don't have to worry about a fire but someone who has only been in Santa Fe for let's say a week who is staying at a facility and goes out and smokes a cigarette or a group of them go out and decide to sing around the campfire, we are all in trouble. So, so, our concern is not with traffic, not with the numbers of people but with the kind of people, people who will not know the area that they're in. And, and, I don't know what you can do about that. You can try and educate people when they come but habits are hard to break and if someone is a smoker, they are going to smoke. And if you smoke in that neighborhood in the summer time you're endangering everybody in the canyon and beyond.

The other thing that disturbed me about the testimony of the representative for the applicants was that she said a couple of things that are just not true. One, she said that the grades on La Barbaria Trail are gentle. The lawyer who spoke against the proposal said that's not true. But I can confirm that because I rolled my truck on the big hill on La Barbaria Trail in the winter; an icy road, my truck stalled, it took off like a sled and I had a choice of going over the edge or up the hillside and the truck rolled. The next guy down hit me. So I know that that's a steep grade. If you try and ride a mountain bike up that road it flips over. It is very very steep. We call it the big hill and we call it the big hill for a reason. So there's that.

The second thing she said that was simply not true was that Susan and Sherry have reached out to all the neighbors. They haven't reached out to us. All of our information came from

conversations with I had with Jay Shelton who is another of our neighbors. But we've been there, as I said, for 30 years and they didn't reach out to us but she said they reached out to everyone of the neighbors.

I think that is probably all I need to say. Everything else that I wanted to say has been said. Thank you.

HEARING OFFICER: Thank you. I think there was one more speaker here.

[Duly sworn, Dennis Lopez, testified as follows]

DENNIS LOPEZ: Dennis Lopez, 26 Camino Tortuga. I'm not much of a speaker and pretty much everything I had to say has been said. But I know they're not hitting any water issues or anything else. That hill he was talking about, every year I see two people in the ditch. You can drive by and look at the cable box it's always laying down. Somebody is always hitting that and that doesn't even have to have snow or ice, just wet you can start sliding down that thing and not make that turn.

The property has been in family originally for about 80 years. I have one lot out of it at 11.5 acres. I live next to the Rowleys and I built between the Rowleys and the Tuckman property which is now Susan's property. I'm not quite sure how them managed to get two casitas in the house there because I haven't been able to build a guest house there – the water restrictions up there. How they got those variances, I don't know. But all I know if you put 10 or 12 people in that place pretty soon the well is going to run dry. I only have 3 gallons per minute well and I know the Rowleys don't have much more than that. I just don't know how they did it and I'm very disappointed in some of these things and I hate to see this go through.

HEARING OFFICER: Thank you. All right, I believe the applicant wanted some rebuttal and I would ask you to address the notice issue that was raised.

MS. JENKINS: Yes, thank you, Hearing Officer Long. A couple of quick things; the big hill that was referenced I was unfamiliar with that particular part of La Barbaria Trails and I've learned that that is beyond where Camino Tortuga forks and heads to the subject property so there would be nobody who would be a guest of the ranch would go that far down La Barbaria Trail. So up to the point where the road forks La Barbaria Trail, the grade of the road does comply with County requirements.

As part of the initial outreach to the neighborhood Susan and Sherry did an email to explain what their intentions were, invite people to visit with them at the property and asked for opportunities to visit with everybody personally and the Banks were on that distribution list so it is possible something got lost in the email. But everybody in the neighborhood was on that distribution list.

Lastly, with respect to water use, the previous owner, Tuckman, who was referenced did a geohydrology study. There are two wells on the property. One at the main house and one well that serves the casitas and the geohydrology study was done and there's a water restrictive covenant for one acre-foot of annual water use per year. We have developed a water budget and there is a water restriction covenant in place executed by the County for one acre-foot per-year, that has all been approved by the County Hydrologist.

HEARING OFFICER: That's for the entire property?

MS. JENKINS: The entire property. So there is more than enough and like I said that has been supported by a geohydrology report.

With respect to the notice, you know we do not – the property does not border La Barbaria Road. We are provided one sign from the County and the sign was put on the property and so that's what I can speak to. We will get with the County as far as prior to going to Planning

Commission to see if they want us to put up an additional sign. They provided us one and so if we need to put up an additional sign we will absolutely do that prior to the Planning Commission hearing.

HEARING OFFICER: Great.

MS. JENKINS: Thank you very much for your time. That's all I have.

HEARING OFFICER: Thank you. All right, one more.

[Duly sworn, Gary Friedman, testified as follows]

GARY FRIEDMAN: Gary Friedman, I'm sworn in but I'm counsel for the applicant. I wanted to address the issue of the association governing documents. My clients never received a copy of any governing document for La Barbaria Trail Association. Just a question, has the County been presented with a copy of any documents, governing documents for the La Barbaria Trail Association? Are they in the packet articles of incorporation or bylaws?

HEARING OFFICER: I think it was just the letter and the issue of their existence or organization and so on was not an issue until the hearing.

MR. FRIEDMAN: I take umbrage with someone representing that there is a governing body that has been properly formed under the laws of the State of New Mexico. I checked the State records online and I found nothing to show that that association has ever been incorporated and didn't find anything myself. And in any event, the only document that I have is a road maintenance agreement that is only signed by nine lot owners at that time and I know a number of people who apparently own property in that area, Mr. Banks and Mr. Shelton, they are not signatures to that document.

So I think we just have to be real careful in the message that is being given that the association has taken a position versus a few neighbors in the area.

HEARING OFFICER: So the road maintenance agreement was part of your clients closing documents?

MR. FRIEDMAN: No, actually it was not. It's not – I handled the closing. It's not in the title policy, not in the title binder and it was never even part of it. We got it later after they moved in but it merely talks about people contributing to the road. It doesn't talk about the formation – I think it's in the packet. It doesn't even talk about the formation of the association or the governing rules and regulations of the association. They don't formally exist as far as I know.

HEARING OFFICER: Well, maybe that is something that can be run down prior to the Planning Commission meeting.

MR. FRIEDMAN: Absolutely, right. I wanted to also address the point that one of the gentlemen speaking in opposition was talking about his concern about smoking. There's not going to be any smoking on this property. And also the issue about the public interest; I think there was mention made by Mr. Graeser about concerns about fire and that being the public interest criteria that can go against granting the variance. I think just the opposite. Allowing my clients to use the property as they desire is going to improve the prevention of fire risks in the future and Ms. Jenkins has talked about that in detail with the fire suppression system. So I think the public interest is certainly going to be served by the use of the property benefitting the society as a whole and the City of Santa Fe. And the danger of fire is going to be diminished.

Mr. Graeser also pointed out, we're not in a court of law, Your Honor, but Mr. Graeser in his letter talked about the Downtown Neighborhood Association Case and I just wanted to cite another reference to that case which is in paragraph 27 that says, The exact showing necessary to prove unnecessary hardship varies from case to case. And this case was the Albuquerque City Council that was involved, the Court said the City Council must make the initial determination by

considering all the relevant circumstances. Essentially, whether or not other reasonable use of the property can be accomplished is only one factor that goes before the governing body when they make a decision on whether or not to grant the variance. It's not the only factor and as we know there is various criteria in the code that is talked about.

And, I'd also like for the record to indicate another case that I know you're very well familiar with which is the case of *Pauley versus Santa Fe County Board of County Commissioners*, 138 New Mexico 82. That was a Supreme Court case. And the reason I bring that up is because like the applicant in that case, Ms. Long, Hearts Way Ranch is looking at a permitted use. In that case it was a permitted use, a telecommunication tower, and here we're looking at a use that the County has specifically said is appropriate for that area. And, also like the variance in the Pauley case, in this case the variance seeks to use the land as allowed under the zoning regulations. So in the Pauley case the Commissioners found that the denial of the variance would result in inhibiting achievement of the purpose of the code and I think that's exactly the case here. The purpose of the code is to foster economic vitality of local businesses and professionals and that's in section 1.4.2.11 and in addition, Ms. Jenkins talked about a couple of other sections of the code that relate to fostering economic vitality. So I think it is clear here, the same way in the Pauley case, is that we want to achieve the purpose of the code and the variance does not go against that.

Thank you.

HEARING OFFICER: Okay, thank you. All right, that will close the public hearing – yes.

MS. LUCERO: Hearing Officer Long, we have Victoria DeVargas here from the County Fire Prevention Division and she would like to address the letters from the Hondo Fire District.

HEARING OFFICER: All right. That seems appropriate.

VICTORIA DEVARGAS: Hearing Officer Long, I just wanted it recorded or documented that those letters this is the first time that the Fire Marshall's office has seen those. They are a representation of the district fire chief from Hondo fire district. They do not represent code. The definition of extreme fire danger that is given in that letter is in reference to the Forest Service and their daily description of daily hazards as far as winds, weather, temperatures, humidity and so forth. The extreme fire danger that this property falls under is referenced in the Wildland Urban Interface Code. I apologize I tried to find the definition for the category extreme but I was unable to find that during this hearing. So we can follow-up with that if need be.

But as far as Fire Code goes, all of those letter were addressed by inspector Tim Gilmore the requirements in reference to slope and any additional requirements such as sprinklers or water storage and the applicant has agreed to those requirements.

HEARING OFFICER: Okay, thank you for that clarification, it was a little confusing.

All right with that then our public hearing is closed. As you've heard reference to, I just make recommendations and my recommendation will go on to the Planning Commission and that will also involve another public hearing that you are able to speak at and present your views. My recommendation has to be done within 15 days. I expect that to be done sooner since I am going out of town and I want to get it done before I go out of town. I will attempt to get it done as quickly as I can. I don't usually announce my decisions. I've got to go through my notes and I'll reduce that to writing and then staff, of course, will make that available to you when it's finalized.

All right, and we have no further business.

IV. Adjournment

With no further business, Hearing Officer Long adjourned the meeting at 5 p.m.

Approved by:

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Nancy Long, SLDC Hearing Officer  
Santa Fe County

CASE NO. V16-5150  
Heart's Way Ranch, Susan Carter, Owner, Applicant

**RECOMMENDED DECISION AND ORDER**

**THIS MATTER** came before the Sustainable Land Development Code Hearing Officer for hearing on August 25, 2016, on the application of Heart's Way Ranch, Susan Carter, Owner (Applicant) for Three Variances: a Variance of Chapter 7, Section 7.11.6.6 to Allow the Grade of the Approach at the Intersection to Exceed 5%; Chapter 7.11.2, Table 7-13, to Allow the Overall Grade of the Driveway to Exceed 10%; and 7.11.2 Table 7-13 – Local Road Design Standards to Allow Access from Offsite Roads That Do Not Meet Code, of the Sustainable Land Development Code (SLDC). The Applicant proposes a Retreat Facility consisting of 2 casitas, a yoga area, and a main residence on 39.5 acres (Property). The site is zoned as Rural Fringe (RUR-F). Appendix B of the SLDC designates a retreat as a permitted use within the RUR-F Zoning District. The Property is located at 34 Sendero De Corazon, Via La Barbaria Trail, within Township 16 North, Range 10 East, Section 9 (Commission District 4). The Hearing Officer, having reviewed the application, staff reports, and having conducted a public hearing on the request, finds that the application is well-taken and should be granted, and makes the following findings of fact and conclusions of law:

1. On May 27, 2016, the Applicant submitted their application for the variances.
2. As required by the SLDC, the Applicant presented the application to the Technical Advisory Committee (TAC) on May 19, 2016, at the regular scheduled monthly meeting, which satisfied the requirements set forth in Chapter 4, Section 4.4.4.3 Pre-application TAC Meeting and Table 4-1.



3. Notice requirements were met as per Chapter 4, Section 4.6.3., General Notice of Application Requiring a Public Hearing, of the SLDC. In advance of the hearing on the Application, the Applicant provided an affidavit of posting of notice of the hearing, confirming that public notice posting regarding the application was made for fifteen days on the Property, beginning on August 10, 2016. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on August 10, 2016, as evidenced by a copy of that legal notice contained in the record. Notice of the hearing was sent to owners of land within 500' of the subject Property and a list of persons sent a mailing is contained in the record. Staff prepared the sign for posting on the Property and will review its sufficiency and whether a second sign is warranted prior to the Planning Commission hearing.

4. The site is within the Rural Fringe Zoning District and is zoned as Rural Fringe (RUR-F). Appendix B of the SLDC designates a retreat as a permitted use within the RUR-F Zoning District. The Property is located at 34 Sendero De Corazon, via La Barbaria Trail, within Township 16 North, Range 10 East, Section 9 (Commission District 4).

5. The following SLDC provisions are applicable to this case:

A. Chapter 7, Section 7.11.6.6 provides:

Grades at the approach of intersections shall not exceed five percent (5%) for one hundred (100) linear feet prior to the radius return of the intersection, excluding vertical curve distance.

B. Chapter 7, Table 7-13 Rural Road Classification and Design Standards (SDA-3) requires a 10% or less grade for the driveway to the Property

C. Chapter 7, Section 7.11.2, Table 7-13, Local Road Design Standards, requires offsite roads to have a 20' driving surface.

D. Chapter 14, Section 14.9.7.1, Variances, Purpose, states:

The purpose of this section is to provide a mechanism in the form of a variance that grants a landowner relief from certain standards in this code

where, due to extraordinary and exceptional situations or conditions of the Property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner. The granting of an area variance shall allow a deviation from the dimensional requirements of the Code, but in no way shall it authorize a use of land that is otherwise prohibited in the relevant zoning district.

E. Chapter 14, Section 14.9.7.4, Variances, Review criteria states:

A variance may be granted by only a majority of all the members of the Planning Commission (or the Board, on appeal from the Planning Commission) where authorized by NMSA 1978, Section 3-21-8(C):

1. where the request is not contrary to public interest;
2. where, owing to special conditions, a literal enforcement of the SLDC will result in unnecessary hardship to the Applicant; and
3. so that the spirit of the SLDC is observed and substantial justice is done.

F. Chapter 14, Section 14.9.7.5 Variances, Conditions of approval states:

1. The Planning Commission may impose conditions on a variance request necessary to accomplish the purposes and intent of the SLDC and the SGMP and to prevent or minimize adverse impacts on the general health, safety and welfare of Property owners and area residents.
2. All approved variances run with the land, unless conditions of approval imposed by the Planning Commission specify otherwise.
3. All approved variances automatically expire within one year of the date of approval, unless the Applicant takes affirmative action consistent with the approval.

6. In support of the requested variances, the Applicant provided responses as follows:

1) The request is not contrary to the public interest in that the private driveway which will be used primarily by the Property owners for access to the single family residence at the easternmost end of the drive, and by four to six retreat guests to access the two casitas that will provide overnight accommodations, was constructed pursuant to previous code



requirements, has fire protection measures already constructed and the proposed use will be a decrease in intensity.

2) Owing to special conditions, a literal enforcement of the SLDC will result in unnecessary hardship to the Applicant in that the Property comprises very steep terrain and compliance with the SLDC grade requirements for the driveway would excessively damage the terrain and be prohibitively expensive and it would cause unnecessary hardship (and perhaps not be possible) to widen the access road (La Barberia Trail) or reduce the road grade at the intersection.

3) The spirit of the SLDC is observed and substantial justice is done by minimizing adverse environmental impacts that any reduction in driveway grade would cause while satisfying requirements for emergency access and life safety. The variance request observes the spirit of Section 1.4.2.11 of the SLDC which encourages local small businesses in order to support a balanced, vigorous economy.

7. Staff recommended denial of the requested variances.

8. At the public hearing, there was testimony both for and against the requested variances. In support, there was testimony in regard to the need for the business, the soundness of the Applicant, the adequacy of La Barberia Trail and of the driveway serving the Property. In opposition, there was testimony as to the alleged legal insufficiency of the variance requests, the inadequacy of La Barberia Trail, the fire hazard in the area and related matters.

The Hearing Officer finds:

1. Based on the application and the evidence and testimony presented at the public hearing as described herein, the use for which the variance is requested:

A. is not contrary to public interest;

B. Owing to special conditions, a literal enforcement of the SLDC will result in unnecessary hardship to the Applicant; and

C. Granting the variance will result in the spirit of the SLDC being observed and substantial justice done.

2. An extraordinary and exceptional situation has been demonstrated due to the steep terrain of the Property and the avoidance of scarring of the hillside to reconstruct the driveway, which is well constructed and contains fire protection measures including pull-out areas and two 10,000 gallon water storage tanks; it would be difficult or impossible to widen La Barberia Trail (and prohibitively costly) or to change the grade of the intersection of La Barberia Trail as it is an existing road constructed many years ago with inadequate easement; and denying the variance requests would hinder the spirit of the SLDC in fostering local businesses.

3. The conditions for approval of the requests are recommended as follows:

a. The turnouts and turnarounds of the driveway shall be maintained as approved by the County with an all-weather driving surface and with an un-obstructed vertical clearance of 13'-6"; and

b. The driveway shall meet a minimum 28' inside radius on curves.

c. The entrance gate at the top of Sendero Del Corazon shall be set to open further to allow for the increased turn and radius into the Casita B driveway.

d. Due to the potential access issues and remote location of this project, for life safety and property protection, the Applicant shall install Automatic Fire Protection Sprinkler systems meeting NFPA 13R requirements in Casitas A&B.

SFC CLERK RECORDED 8/31/16 10:10

- e. The Applicant shall comply with all applicable regulations within SFC Ordinance 2001-11/EZA 2001-04 as applicable for the Urban Wildland Interface Code governing such area.
- f. The Applicant shall have a vegetation management plan as required by the Urban Interface Fire Code 2001-11 for approval by the County.

**WHEREFORE**, the Hearing Officer recommends approval of a Variance of Chapter 7, Section 7.11.6.6 to Allow the Grade of the Approach at the Intersection to Exceed 5%; Chapter 7.11.2, Table 7-13, to Allow the Overall Grade of the Driveway to Exceed 10%; and 7.11.2 Table 7-13 – Local Road Design Standards to Allow Access from Offsite Roads that do not meet code, all of the Sustainable Land Development Code (SLDC), subject to the recommended conditions of approval.

Respectfully submitted,

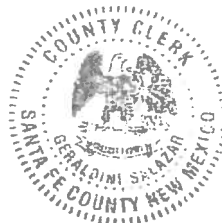
*Nancy R. Long*  
 Nancy R. Long  
 Hearing Officer

Date: 8-31-16

COUNTY OF SANTA FE ) SLDC HEARING OFFICER 0  
 STATE OF NEW MEXICO ) ss PAGES: 6

I Hereby Certify That This Instrument Was Filed for Record On The 2ND Day Of September, 2016 at 09:34:54 AM and Was Duly Recorded as Instrument # 1803542 of The Records Of Santa Fe County

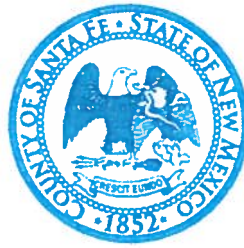
Witness My Hand And Seal Of Office  
 Deputy *Laura Hernandez* County Clerk, Santa Fe, NM  
 Geraldine Salazar



**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*

**CASE NO. V 16-5150  
HEARTS WAY RANCH  
SUSAN CARTER APPLICANT**

**ORDER**

**THIS MATTER** came before the Santa Fe County Planning Commission (Commission) for hearing on September 15, 2016, on the Application of Hearts Way Ranch, Susan Carter, (Applicants) for three variances of the Sustainable Land Development Code (SLDC) to allow a retreat facility consisting of 2 casitas, a yoga area, and a main residence on 39.5 acres. The Applicant requests a variance of Chapter 7, Section 7.11.6.6 to allow the grade of the approach at the intersection to exceed 5%; a variance of Chapter 7.11.2, Table 7-13, to allow the overall grade of the driveway to exceed 10% in three separate locations in order to get to the casitas and main residence; and a variance of 7.11.2 Table 7-13 Local Road Design Standards to allow access from offsite roads that do not meet Code requirements. The 39.5 acre property is located at 34 Sendero de Corazon, via La Barbaria Trail within Section 9, Township 16 North, Range 10 East (Commission District 4), SDA-3.

The Planning Commission, having reviewed the Application, staff report, the Hearing Officer's recommendation, and having conducted a public hearing on the Application, finds that the Application is well-taken and should be approved and makes the following findings of fact and conclusions of law:



NBA 140

1. The Commission hereby adopts in its entirety of the Hearing Officer's Recommended Decision and Order attached hereto as Exhibit A; and
2. The Application to allow a retreat facility consisting of 2 casitas, a yoga area, and a main residence on 39.5 acres with a variance of Chapter 7, Section 7.11.6.6 to allow the grade of the approach at the intersection to exceed 5%; a variance of Chapter 7.11.2, Table 7-13, to allow the overall grade of the driveway to exceed 10% in three separate locations in order to get to the casitas and main residence; and a variance of 7.11.2 Table 7-13 Local Road Design Standards to allow access from offsite roads is approved subject to the conditions memorialized in the Hearing Officer's Recommended Decision and Order.

**IT IS SO ORDERED.**

This Order was adopted by the Commission on this \_\_\_\_ day of \_\_\_\_\_, 2016.


**THE SANTA FE COUNTY PLANNING COMMISSION**

\_\_\_\_\_  
Frank Katz, Chairperson

ATTEST:

\_\_\_\_\_  
Geraldine Salazar, County Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Gregory S. Shaffer, County Attorney

## 14.9.7. Variances.

**14.9.7.1. Purpose.** The purpose of this section is to provide a mechanism in the form of a variance that grants a landowner relief from certain standards in this code where, due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner. The granting of an area variance shall allow a deviation from the dimensional requirements of the Code, but in no way shall it authorize a use of land that is otherwise prohibited in the relevant zoning district.

**14.9.7.2. Process.** All applications for variances will be processed in accordance with this chapter of the Code.

**14.9.7.3. Applicability.** When consistent with the review criteria listed below, the planning commission may grant a zoning variance from any provision of the SLDC except that the planning commission shall not grant a variance that authorizes a use of land that is otherwise prohibited in the relevant zoning district.

**14.9.7.4. Review criteria.** A variance may be granted only by a majority of all the members of the Planning Commission (or the Board, on appeal from the Planning Commission) where authorized by NMSA 1978, Section 3-21-8(C):

1. where the request is not contrary to the public interest;
2. where, owing to special conditions, a literal enforcement of the SLDC will result in unnecessary hardship to the applicant; and
3. so that the spirit of the SLDC is observed and substantial justice is done.

### 14.9.7.5. Conditions of approval.

1. The Planning Commission may impose conditions on a variance request necessary to accomplish the purposes and intent of the SLDC and the SGMP and to prevent or minimize adverse impacts on the general health, safety and welfare of property owners and area residents.
2. All approved variances run with the land, unless conditions of approval imposed by the Planning Commission specify otherwise.
3. All approved variances automatically expire within one year of the date of approval, unless the applicant takes affirmative action consistent with the approval.

**14.9.7.6. Administrative minor deviations.** The Administrator is authorized to administratively approve minor deviations upon a finding that the result is consistent with the intent and purpose of this SLDC and not detrimental to adjacent or surrounding properties as follows:

1. minor deviations from the dimensional requirements of Chapter 7 of the SLDC not to exceed ten percent (10%) of the required dimension.
2. minor deviations from the density requirements of Chapter 8 of the SLDC not to exceed five tenths of a percent (0.5%) of the gross acreage allowed in the zoning district.

