

**Henry P. Roybal**  
Commissioner, District 1

**Miguel M. Chavez**  
Commissioner, District 2

**Robert A. Anaya**  
Commissioner, District 3



**Kathy Holian**  
Commissioner, District 4

**Liz Stefanics**  
Commissioner, District 5

**Katherine Miller**  
County Manager

**DATE:** April 28, 2016

**TO:** SLDC Hearing Officer

**FROM:** John Lovato, Development Review Specialist Sr. *JL*

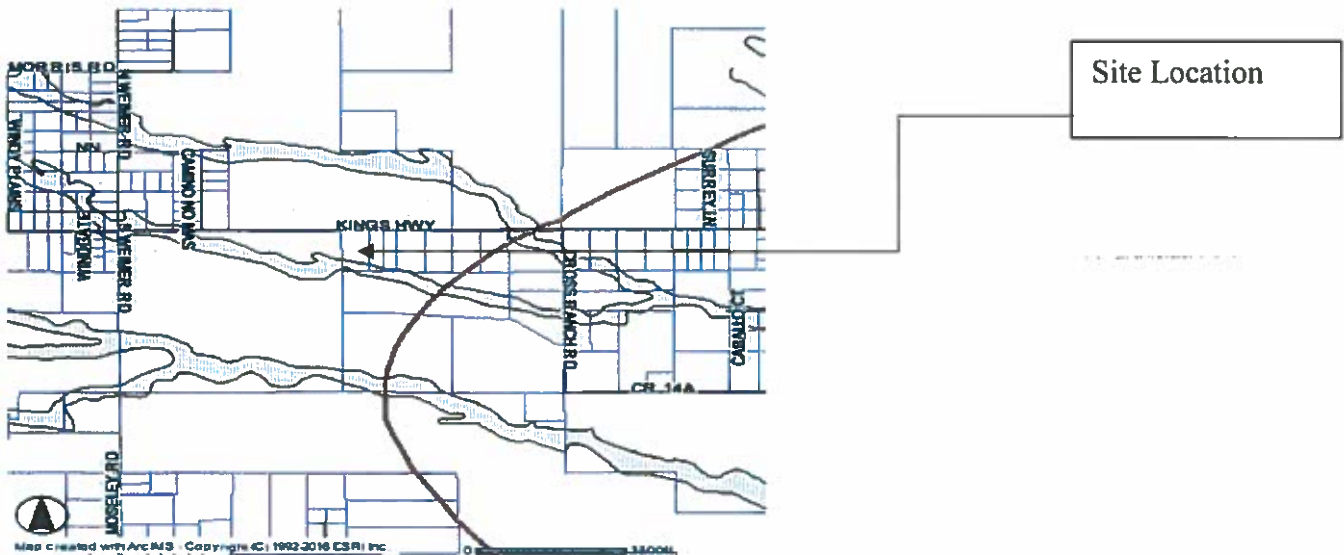
**VIA:** Penny Ellis-Green, Growth Management Director *PEG*  
Vicki Lucero, Building and Development Services Manager *VL*  
Wayne Dalton, Building and Development Services Supervisor *WD*

**FILE REF.:** CASE # V 16-5060 Travis and Jessica Lucero Variance

**ISSUE:**

Travis and Jessica Lucero (Applicants) request a variance of Chapter 8, Section 8.6.6.3, Table 8-10, Dimensional Standards RES-E, of Ordinance No. 2015-11, the Sustainable Land Development Code (SLDC) to allow a residence to exceed 24 feet in height. The property is located at 300, Highway 472, within, Section 31, Township 11 North, Range 8 East, Commission District 3.

**Vicinity Map:**



NBD-1

## SUMMARY:

The Applicants are the owners of the property as evidenced by warranty deed recorded in the records of the Santa Fe County Clerk on February 18, 2016, as Instrument # 17586724. The Applicants are representing themselves to pursue the request for a variance to allow a proposed residential structure to exceed 24 feet in height. The proposed height of the 3,190 square foot residence is 30' feet.

The property consists of 20 acres within the Residential Estate Zoning District, as defined by the SLDC, Chapter 8, Section 8.6.6.3., which states the maximum allowable height is 24 feet. Therefore, the Applicants are requesting a variance

The Applicants state the residence will be two stories and the neighboring incorporated area of Edgewood which is approximately two (2) miles west, allows for a 36' height requirement. They further state they would like to exceed height requirements to create a pitched roof due to snow loads that are possible during winter months and would like to raise the floor level in order for their two small children to remain safe from rodents and snakes in the area.

**Staff Response:** Some surrounding structures are legal non-conforming (constructed prior to the Code) and other structures meet height requirements of 24' applicable to former Ordinance No. 1996-10, The Land Development Code. The property is zoned within the Residential Estate Zoning District where maximum allowed height is 24'. The incorporated area of Edgewood is located approximately 2 miles west and not adjacent to the subject site. Staff has confirmed the required height limitation for Edgewood is 36'.

The applicable requirements under the Santa Fe County Sustainable Land Development Code, Ordinance No. 2015-11 (SLDC), which govern this Application are the following:

Chapter 8, Section 8.6.6.3, Table 8-10, Dimensional Standards RES-E states, that the maximum height within a Residential Estate Zoning District is 24'. (Exhibit 5)

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. (Exhibit 6)

Chapter 4, Table 4-1, Procedural Requirements by Application, defines the review/approval process for a variance request. (Exhibit 7)

Chapter 14, Section 14.9.7.4, Variance 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.

Chapter 14, Section 14.9.7.5 Variance 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.

As required by the SLDC, the Applicants presented the Application to the Technical Advisory Committee (TAC) on April 7, 2016, at the regular scheduled monthly meeting, which satisfied the requirements set forth in Chapter 4, TAC Meeting Table 4-1.

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 a hearing on the Application, the Applicants 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 April 11, 2016. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on April 13, 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.

This Application was submitted on March 25, 2016

#### **RECOMMENDATION:**

**Staff recommends denial of the Applicants request for a variance to allow the proposed residential structure to be constructed 30' in height. Chapter 8, Section 8.6.6.3, Table 8-10, Dimensional Standards, states, the maximum height within the Residential Estate (RES-E) is 24'.**

**Staff requests the Hearing Officer memorialize findings of fact and conclusions of law in a written order. The Santa Fe County Planning Commission (SFCPC) will be holding a public hearing on this matter on June 16, 2016.**

## **EXHIBITS:**

1. Applicants Request
2. Proposed Site Plan/Elevations
3. Photos
4. Aerial Photo of Site
5. Chapter 8, Table 8-10
6. Chapter 14, Section 14.9.7.1
7. Chapter 4. Table 4-1
8. Notice
9. Letter of support
10. Table 4-1

February 19, 2016

To Whom It May Concern:

We Travis L. Lucero and Jessica A. Lucero are submitting application materials for a variance on a site built home to be located at 300 Hwy 472, Stanley, NM 87056. This property is located at the very most southern tip of Santa Fe County in Section 31 of T11N R8E.

We are requesting a six feet height variance increase over the 24 foot height restriction, thus allowing for a total of 30 feet. The neighboring community of Edgewood as well as the area to the north (along hwy 41) of the said property allows for structures 36 feet in height. The proposed structure is a 2 story home with a 5/12 pitched roof. We have witnessed the amount of snow that can possibly fall and accumulate on the roof and would like a pitch that is efficient for snow and water shed. We also intend on raising the floor level of the structure as a means of both snow and wildlife mitigation. We have two small children and fear the dangers from wildlife such as rattlesnakes and plague. This 20 acre parcel is home to many wild rabbits, mice and the microecology that comes with them. Our thought is that a 2 story home will minimize ecological disturbance while allowing for the square footage our family desires. Furthermore, considering the style of the house (see attached elevation plan) this pitch and raised foundation would add an extra aesthetic value and attractiveness to the proposed property and surrounding areas.

The most recent home in the area is a modular home built / moved in approximately 5 years earlier. We have researched comparable homes, sales, and HUD homes in the area and are confident that our proposed home will add real property value to the area. Another important factor is the reality that the single family home with a height of 30 feet WILL NOT impact the views of any existing or future homes as the total lot size is 20.00 acres. Attached are pictures taken from all directions at the proposed home site to show that this description is valid. Based on the proposed location of our project within our 20.00 parcel and based on required setbacks with Residential Estate Zoning pursuant to SLDC 7.3.3 Table 7-A, the nearest possibility of a structure being affected by this variance would be at minimum approximately 600 feet away, if one were to be permitted and constructed. This can be verified with the attached pictures of the surrounding area and viewed in the proposed site plan. In addition to this we have secured multiple written statements from surrounding neighbors to ensure they have no objection. It is our opinion that our proposed structure falls exactly within the realm of purpose set forth in the SLDC 8.6.6.1.



NBP-5

472 KINGS HIGHWAY

N 89° 54' 45" E 658.62'

### LEGAL DESCRIPTION

The West one-half (W 1/2) of the Northwest one-quarter (NW 1/4) of the Northwest one quarter (NW 1/4) of section 31, Township 11 North., Range 8 East, N. M. P. M., Containing 20 acres, more or less.

SANTA FE COUNTY

N 00° 08' 20" E 1321.80'

S 00° 02' 10" W 1321.27'

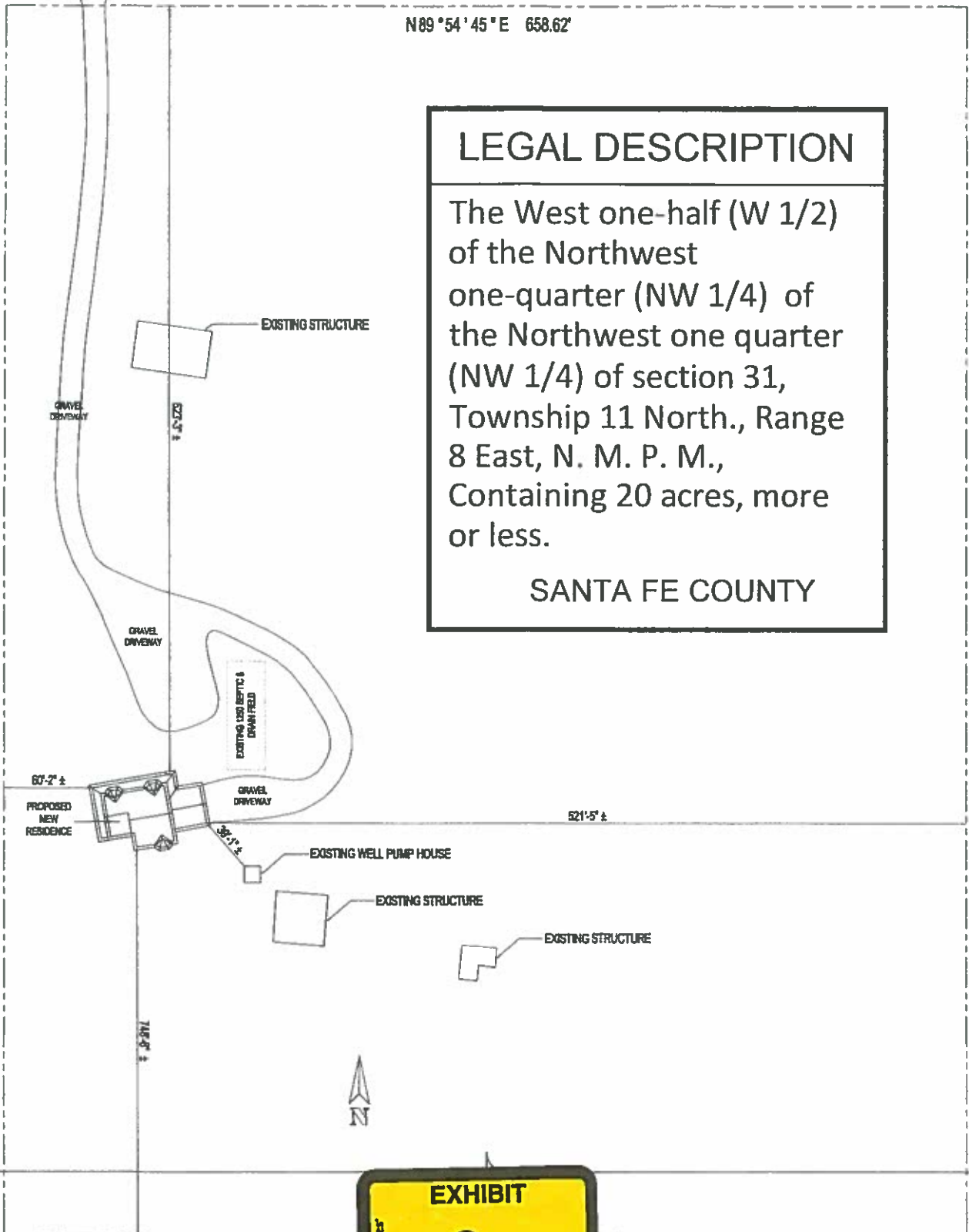
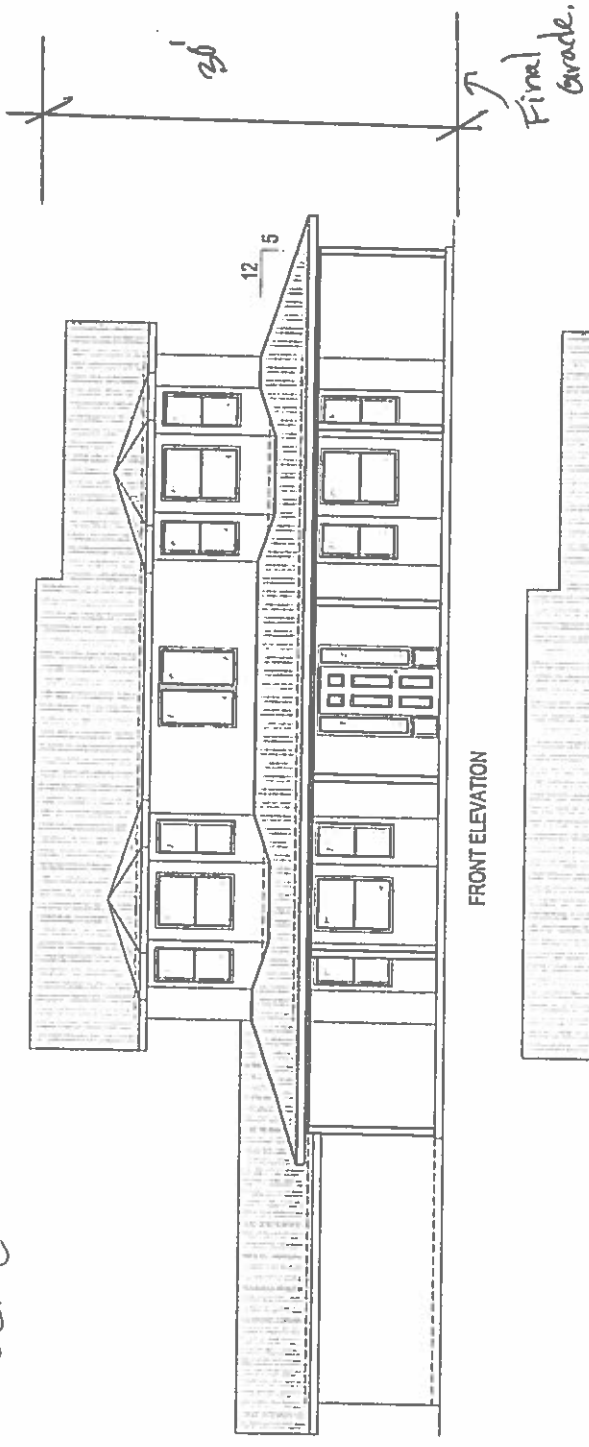


EXHIBIT  
2.

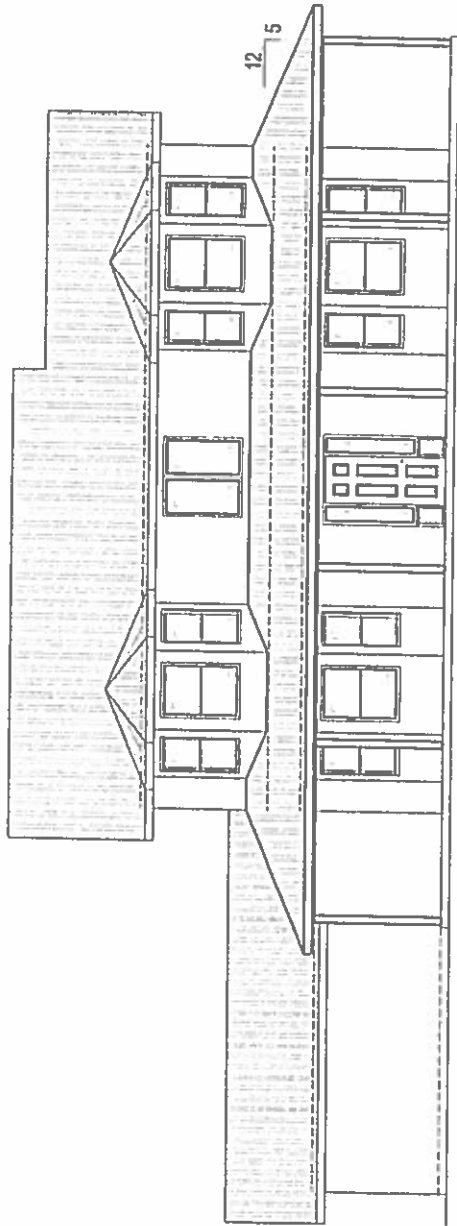
SITE PLAN

NBD-6

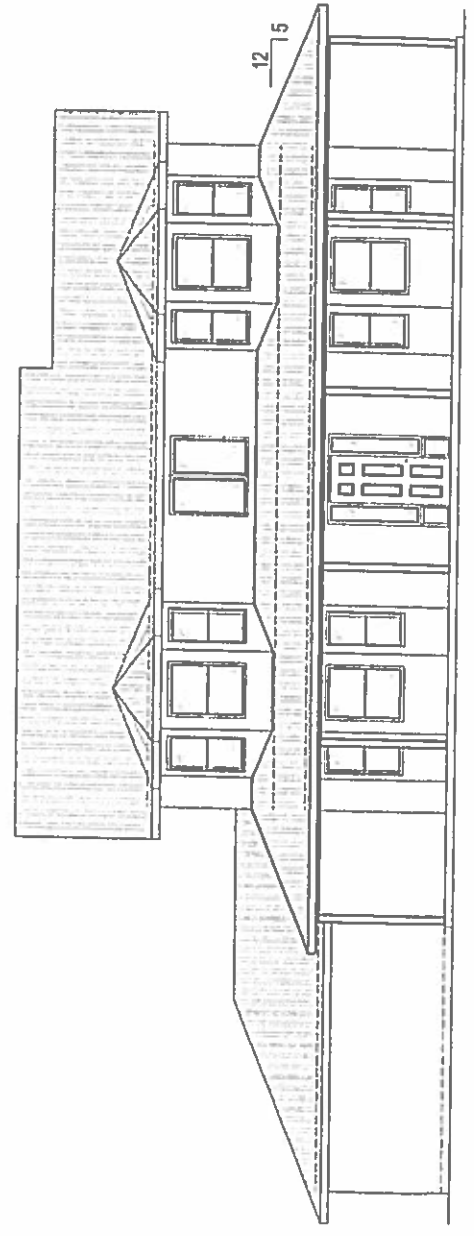
IKAYIS + WENJILIT LUCERO



FRONT ELEVATION



FRONT ELEVATION



FRONT ELEVATION



NBD-7



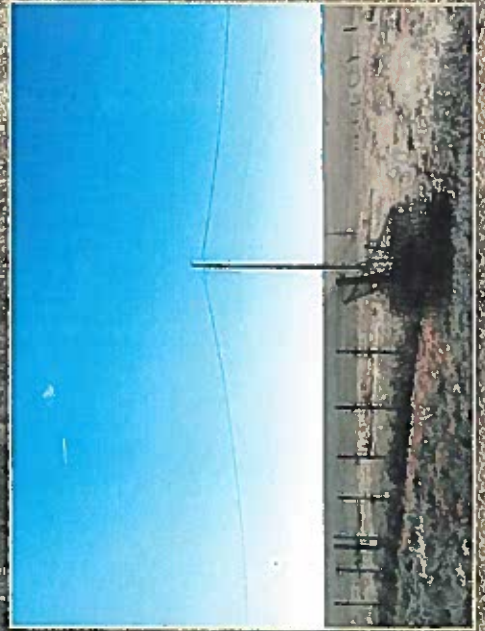
PROPOSED HOME LOCATION



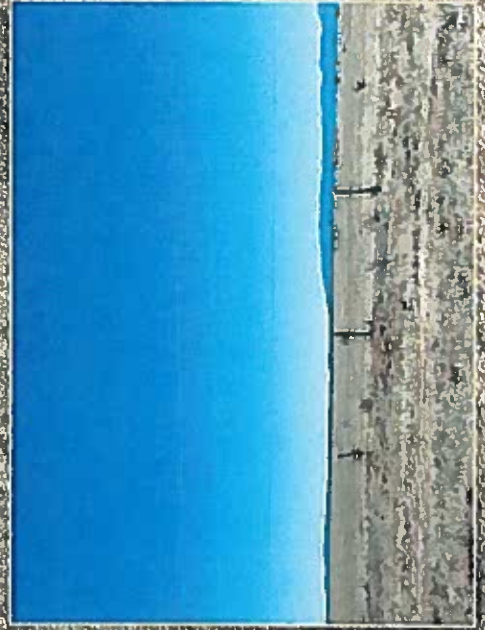
NORTH VIEW



EAST VIEW



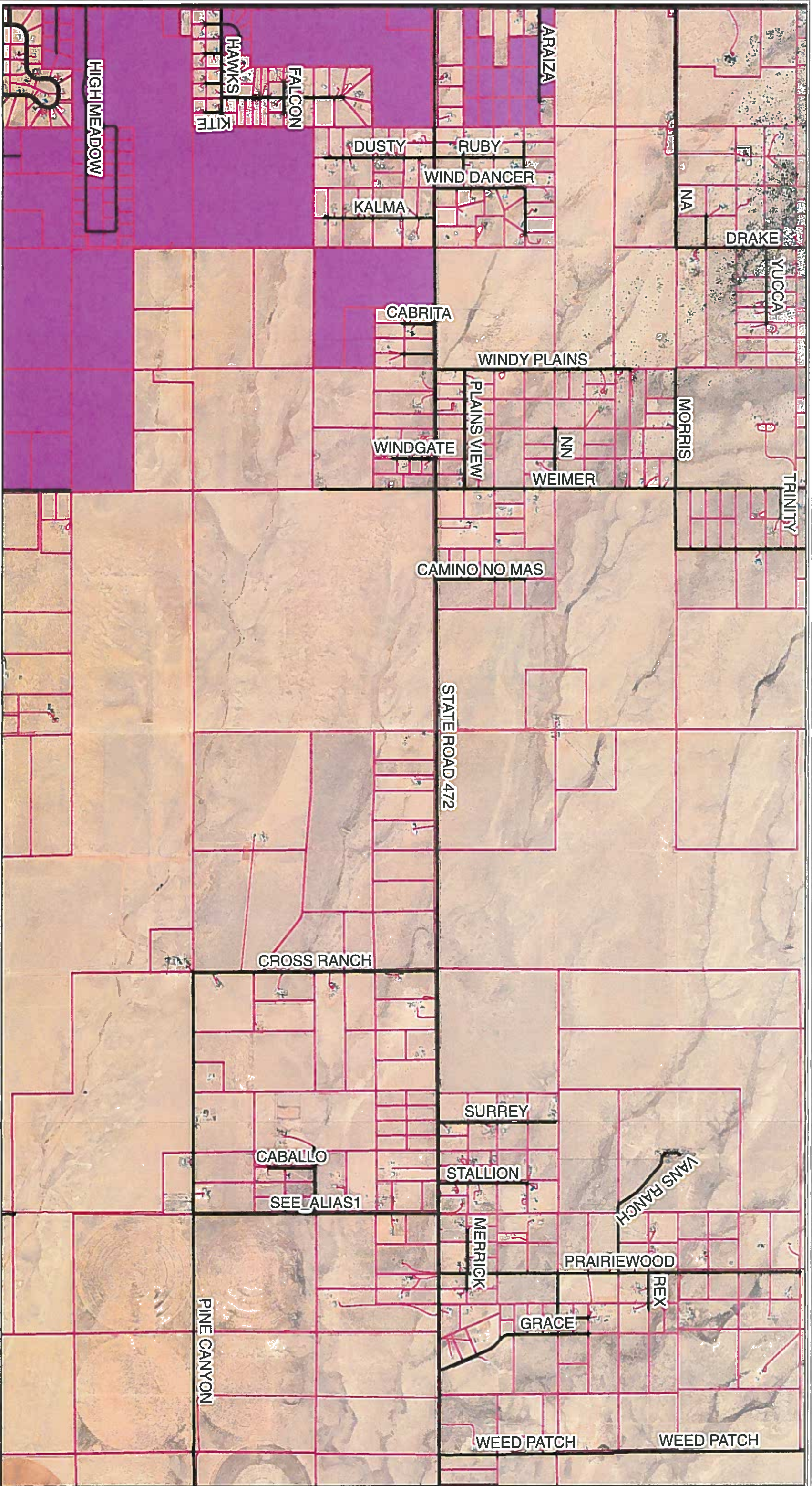
SOUTH VIEW



WEST VIEW

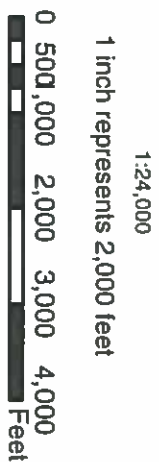
tabbier  
EXHIBIT  
**3.**





**Legend**

-  Roads
-  DRIVeways
-  PARCELS



2014 Imagery  
2 FOOT CONTOURS

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



April 19, 2016

NSD-9



neighborhoods (lands that are already committed to residential uses and have been subdivided for a specific development) and undeveloped or underdeveloped areas with a moderate to high development suitability. This category may include limited agricultural use accessory to residential uses. Density transfers and clustered development shall be allowed in order to support continued farming and/or ranching activities, conserve open space or protect scenic features and environmentally sensitive areas.

**8.6.6.2. Permitted Uses.** Appendix B contains a list of all permitted, accessory and conditional uses allowed within the within the RES-E district.

**8.6.6.3. Dimensional Standards.** The dimensional standards within the RES-E district are outlined in Table 8-10.

**Table 8-10: Dimensional Standards – RES-E (Residential Estate).**

Zoning District	RES-E
Density (# of acres per dwelling unit)	2.5
Frontage (minimum, feet)	100
Lot width (minimum, feet)	100
Lot width (maximum, feet)	n/a
Height (maximum, feet)	24

**8.6.7. Residential Community (RES-C).**

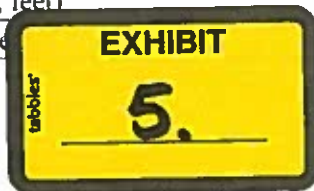
**8.6.7.1. Purpose.** The purpose of the Residential Community (RES-C) district is to designate areas suitable for suburban-type residential development and other compatible uses. The RES-C district supports single-family homes on relatively small lots consistent with contemporary community development. Generally this district applies to existing medium to higher density residential development in established neighborhoods (lands that are already committed to residential uses and have been subdivided for a specific development) and undeveloped or underdeveloped areas with a moderate to high development suitability. Density transfers and clustered development shall be allowed in order to support continued farming and/or ranching activities, conserve open space or protect scenic features and environmentally sensitive areas.

**8.6.7.2. Permitted Uses.** Appendix B contains a list of all permitted, accessory and conditional uses allowed within the within the RES-C district.

**8.6.7.3. Dimensional Standards.** The dimensional standards within the RES-C district are outlined in Table 8-11.

**Table 8-11: Dimensional Standards – R-1 (Residential).**

Zoning District	RES-C
Density (# of acres per dwelling unit)	1
Frontage (minimum, feet)	100
Lot width (minimum, feet)	100
Lot width (maximum, feet)	n/a
Height (maximum, feet)	24





**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 of the percentage allowed in the zoning district.



**Table 4-1: Procedural Requirements by Application Type**

Application Type	Discretionary Review?	Application Requirements			Review/Approval Process				
		Pre-application TAC meeting	Pre-application neighborhood meeting	Studies, reports, assessments	Agency review	Approval by Administrator	Hearing Required?		
							Hearing Officer	Planning Commission	BCC
Development permit: Residential	no	no	no	no	as needed	yes	no	no	no
Development permit: non-residential, mixed use & multi-family	no	yes	as needed	see Table 6-1	as needed	yes	no	no	no
Land divisions, subdivision exemptions and other plat reviews	no	no	no	no	as needed	yes	no	no	no
Family transfer	no	no	no	no	as needed	yes	no	no	no
Temporary use permit	no	no	no	no	as needed	yes	no	no	no
Minor subdivision - final plat, 5 or fewer lots	no	yes	no	see Table 6-1	as needed	yes	no	no	no
Minor subdivision - final plat, more than 5 lots	yes	yes	no	See Table 6-1	As needed	no	no	no	yes
Major subdivision - preliminary plat	yes	yes	yes	see Table 6-1	yes	no	no	no	yes
Major subdivision final plat	yes	yes	No	no	no	no	no	no	yes
Conceptual plan for subdivision - phased or over 24 lots, phased MU, I, IL, CG, CN	yes	yes	Subdivision - yes Others - no	See Table 6-1	As needed	no	no	no	yes
Conceptual plan PDD, CCD	yes	yes	yes	See Table 6-1	yes	no	yes	yes	yes
Vacation of subdivision plat	yes	no	no	no	as needed	no	no	no	yes
Conditional use permit	yes	yes	as needed	see Table 6-1	as needed	no	yes	yes	no
DCI Conditional use permit	yes	yes	yes	yes	yes	no	yes	yes	no
Variance	yes	yes	as needed	no	as needed	no	yes	yes	no
Time Extension	yes	no	no	As needed	As needed	No	No	No	yes
Planned development district	yes	yes	yes	see Table 6-1	yes	no	yes	yes	yes
Overlay zones	yes	yes	yes	no	as needed	no	yes	yes	yes
DCI overlay zones	yes	yes	yes	yes	yes	no	yes	yes	yes
Zoning map amendment (rezoning)	yes	yes	yes	see Table 6-1	as needed	no	yes	yes	yes
Text amendment	yes	yes	no	no	as needed	no	no	yes	yes
Area, District Community Plan, or Plan Amendment	yes	yes	yes	no	as needed	no	no	yes	yes
Beneficial use determination	yes	yes	no	no	no	no	yes	no	yes
Appeals	See Sec. 4.5	no	no	no	no	no	no	See Sec. 4.5	See Sec. 4.5





CERTIFICATION OF POSTING

I hereby certify that the public notice posting regarding Land Development

Case # 16-5060 was posted for 15 days on the property beginning

The 11<sup>th</sup> day of April, 20 16. \*\*

Jessica Lucero  
Signature Jessica Lucero  
Francis L. Lucero

\*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 15 days. It is the applicant's responsibility to ensure that the notice is on the property for the full 15 days.

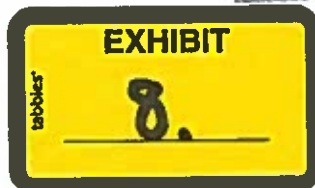
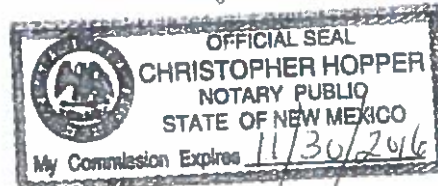
STATE OF NEW MEXICO }  
COUNTY OF SANTA FE }

The foregoing instrument was acknowledged before me this 19 day of April, 2016.

By Jessica Lucero  
Francis L. Lucero

Christopher Hopper  
Notary Public

My Commission Expires:  
11/30/2016



NBD-13

# SANTA FE NEW MEXICAN

Founded 1849

LUCERO, JESSICA  
300 HWY 472  
SANTA FE, NM 87506

ACCOUNT: 25278  
AD NUMBER: 0000164027  
LEGAL NO 80891 P.O. #:  
1 TIME(S) 86.10  
AFFIDAVIT 20.00  
TAX 7.99  
TOTAL 104.09

## 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 80891 a copy of which is hereto attached was published in said newspaper 1 day(s) between 04/13/2016 and 04/13/2016 and that the notice was published in the newspaper proper and not in any supplement; the first date of publication being on the 13th day of April, 2016 and that the undersigned has personal knowledge of the matter and things set forth in this affidavit.

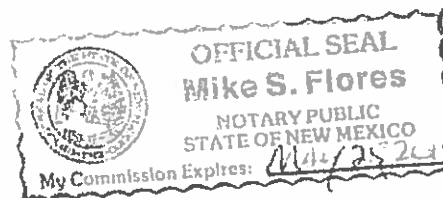
ISI

  
\_\_\_\_\_  
LEGAL ADVERTISEMENT REPRESENTATIVE

Subscribed and sworn to before me on this 13th day of April, 2016

Notary

Commission Expires: May 25, 2019



THE SANTA FE  
**NEW MEXICAN**  
Founded 1849

LEGAL # 80891

CASE # VAR 16-5060  
Travis and Jessica  
Lucero Variance.

**NOTICE OF PUBLIC HEARING**

Notice is hereby given that a public hearing will be held to consider a request by Travis & Jessica Lucero, Applicants, for a variance of Chapter 8, Section 8.6.6.3, Dimensional Standards RES-E (Residential Estate), Table 8-10, of The Sustainable Land Development Code to allow a resident to exceed 24'. The property is 20 acres and located at 300 Highway 472, within the vicinity of Stanley, within Section 31, Township 11 North, Range 8 East (Commission District 3).

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 April 28, 2016, at 4 p.m. on a petition to the Santa Fe County Hearing Officer and on June 16, 2016 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

Continued...

provided to the Administrator prior to the public hearing.

Published in the Santa Fe New Mexican on Wednesday, April 13, 2016.







SEE RETAIL ASSOCIATE

(FOR DOMESTIC ONLY)

TRAVIS AND JESSICA LUCERO  
300 Hwy. 2172  
STANLEY, NM 87056



JANE AYLENE THOMAS  
P.O. Box 29  
McINTOSH, NM 87032

TRAVIS & JESSICA LUCERO  
300 Hwy. 2172  
STANLEY, NM 87056



JOHN F. & DORNA E. ZERIS  
2766 S. ROBERTSON RD LCT 9  
CASPER, WY 82404-3677

TRAVIS & JESSICA LUCERO  
300 Hwy 2172  
STANLEY, NM 87056



JOHN N. III & Amy Jo COSTEN  
6317 VATAPA RD. NE  
RIO RANCHO, NM 87124

NBD-17

300

**PUBLIC NOTICE**

• Notice is hereby given that an application has been filed with Santa Fe County for A VARIANCE OF CHARTER 8, SECTION 8.6 G.3, DIMENSIONAL STANDARDS (RES-2 (RESIDENTIAL ESTATE), TABLE B-10, OF THE SUSTAINABLE LAND DEVELOPMENT CODE TO ALLOW A RESIDENCE TO EXCEED 24'

Name of Applicant TRAVIS & JESSICA LUCERO  
Address of Request 300 HIGHWAY 472  
Legal Description: Section 31 Township 11 NORTH  
Range B EAST NMPM Santa Fe County, New Mexico  
A PUBLIC HEARING will be held/ at the  
Old Santa Fe County Courthouse, corner of Palace and Grant  
Avenues, Santa Fe, New Mexico on/ the 28<sup>th</sup> day of  
APRIL 2016 at 3pm before the SFC PLANNING COMMISSION  
ON JUNE 16, 2016 11:15am BEFORE THE SFC PLANNING COMMISSION  
Further information can be obtained by contacting:  
• the Land Use Department, P.O. Box 276, Santa Fe, NM 87504 •  
Phone (505)988-6225 Development Permit # 16-5060

Tom and Kandy Perkins  
299 Highway 472  
Stanley, N.M.  
March 23, 2016

Santa Fe County Development Review Committee  
Santa Fe County  
Santa Fe, N.M.

Santa Fe County Development Review Committee:

Our neighbors Travis and Jessica Lucero are planning on building a new house at 300 Highway 472, Stanley, N.M. That location is directly across NM 472 from our home. The new house includes plans for overall height of twenty-eight (28) to thirty (30) feet, six (6) to 8 (8) feet above the current building code adopted by Santa Fe County. We have encouraged them to build the house of their dreams, not the house Santa Fe County will allow them to build.

We realize that building codes are followed for a multitude of reasons. We also believe private landowners should have the right to construct buildings including homes on private property with dimensions they choose within reason. Currently several homes exist in our immediate neighborhood that exceed the twenty-four (24) foot code limit for height.

We recently navigated the long, complicated process of obtaining a building permit from Santa Fe County to build our own home. As life-long residents of New Mexico and 30+ year residents of Santa Fe County we respectfully encourage and pose no objections to the county development committee allowing Travis and Jessica Lucero to build a home exceeding county building height code.

Sincerely,



Tom and Kandy Perkins



NBD-19