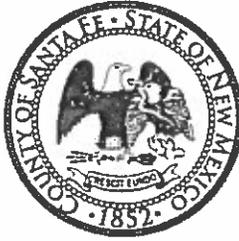


Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: September 30, 2013

TO: Board of County Commissioners

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

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

RE: Amended Final Order CDRC CASE # V13-5140 Robert Garcia Variance

ISSUE:

On August 13, 2013, this matter came before the Board of County Commissioners (BCC), by Applicant Robert Garcia, who requested a variance of Ordinance No. 2008-5 (Pojoaque Valley Traditional Community District), § 12.5 (Density Standards) to allow two dwelling units on a proposed 1.46 acre lot and a variance of Article III, § 2.4.2b.3(a) (Road Access) to allow a road access width of less than twenty feet (20') to access three lots. The Application for the variance was approved unanimously by a 5-0 vote.

On September 10, 2013, the Final Order for this request was approved by the BCC and on September 11, 2013, was recorded and filed by the Santa Fe County Clerk's Office.

Since that time it has been brought to staff's attention that there was a typographical error on the Final Order on page 4, bottom paragraph where it states "IT IS THEREFORE ORDERED that the Application for a variance is denied". The amended Final Order has been corrected, to reflect the true decision of the BCC to approve the request.

EXHIBITS:

1. August 13, BCC Meeting Minutes
2. September 11, Recorded Final Order

XVIII.

A. 2. CDRC CASE #V13-5140 Robert Garcia Variance. Robert Garcia, Applicant, Requests a Variance of Ordinance No. 2008-5 (Pojoaque Valley Traditional Community District), § 12.5 (Density Standards) to Allow Two Dwelling Units on a Proposed 1.46 Acre Lot and a Variance of Article III, § 2.4.2b.3(a) (Road Access) to Allow a Road Access Width of Less Than Twenty Feet (20') to Access Three Lots. The Property is Located at 13A Old Pueblito Road (C.R. 84), in the Vicinity of Pojoaque, within Section 7, Township 19 North, Range 9 East (Commission District 1)

MIKE ROMERO (Case Manager): Good evening. The Applicant has submitted an Application for a Family Transfer Land Division to divide 2.212 acres into two lots. The proposed lots will consist of 0.75 acres and 1.46 acres. The Applicant intends to give his daughter the 0.75-acre parcel and the Applicant will retain the remaining 1.46-acre parcel.

There are currently two pole barns and two residences on the subject property, which the Applicant and the Applicant's son currently reside. One of the dwelling units which is a mobile home, was permitted in 1990, permit # 90-237. It appears that the Applicant has met the code requirements proving all structures on the property are legal non-conforming by providing an aerial photograph from 1975 showing all other existing structures on the property.

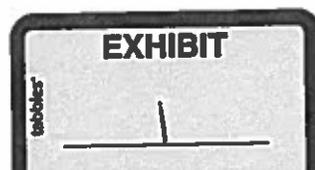
The property is located in the Pojoaque Valley Traditional Community District where the minimum lot size is 0.75 acres per dwelling unit. The proposed Family Transfer meets the requirements of the Code for lot size; however, the Applicant is requesting to allow the two existing residences to remain on the 1.46-acre lot. In order to meet the density requirements for having two dwelling units on one lot, the lot must consist of a minimum of 1.5 acres. Therefore, the Applicant needs a variance.

Staff recommendation: Denial of a variance of Ordinance No. 2008-5 Section 12.5 of the Pojoaque Valley Traditional Community District, and Article III Section 2.4.2b.3(a), Road Access, of the Land Development Code. The recommendation of the CDRC was to recommend approval of the Applicant's request, with the following conditions. Madam Chair, Commissioners, if I may, before I enter these into the record staff has discussed that staff recommendation #3 be removed due to the fact the applicants have complied with providing that the structures on the property are permitted, or legal non-conforming. May I enter the rest of the staff conditions into the record?

CHAIR HOLIAN: Yes, you may.

[The conditions are as follows:]

1. Water use shall be restricted to 1 acre-foot per year per lot. A water meter shall be installed for each lot. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office (As per Article III, § 10.2.2 and Ordinance 2002-13).
2. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval (As per Article III § 2.4.2)



- 12-17
3. ~~The Applicant must provide proof of permits or proof that the structures on the property are legal non-conforming. If the Applicant cannot provide proof that the structures are legal, then the Applicant must obtain After the Fact Permits (As per Article II, § 4.5.2b Article II, § 2).~~
 4. The placement of additional dwelling units or Division of land is prohibited on the property (As Per Ordinance No. 2008-5 Section 12.5).
 5. The Applicant shall comply with all Fire Prevention Division requirements at the time of plat review (As per 1997 Fire Code and 1997 Life Safety Code).

MR. ROMERO: I stand for any questions.

CHAIR HOLIAN: Are there any questions for staff?

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Could you read in staff's recommendations please, that you're recommending? [See above.]

COMMISSIONER MAYFIELD: As you all are aware, this is in the Pojoaque Basin, correct? Staff's aware that this area is located in the Pojoaque Basin?

MR. ROMERO: Correct, sir.

COMMISSIONER MAYFIELD: And I read somewhere in the file that this property is over 100 years old so it probably has a pre-52 well on it.

MR. ROMERO: According to the applicant, Madam Chair, Commissioner Mayfield, according to the applicant and speaking with the applicant there are two prior wells that are legal non-conforming if you will as prior to our code of 1981. I believe one of the wells was drilled in the sixties and I can't clarify as to when the other one was dated, around the same time or prior to that date.

COMMISSIONER MAYFIELD: So if it was prior to they would already be adjudicated for three acre-feet.

MR. ROMERO: Madam Chair, Commissioner Mayfield, according to the applicant, that's what – I believe the applicant said these are Aamodt wells, which they're already at three acre-foot per well. There's two on that property right now.

COMMISSIONER MAYFIELD: So why are you putting this staff condition of one acre-foot on it?

VICKI LUCERO (Land Use Department): Madam Chair, Commissioner Mayfield, it's typical when an application or an applicant comes in to develop their property to create additional lots our code allows us to impose water restrictive covenants on these properties. So I don't know – regardless of whether it's through the Aamodt settlement or just in another area of the county the code does allow us to restrict water use and because this is a traditional community it's restricted to an acre-foot.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Ross, as far as what the Aamodt settlement is setting up, with the potential development of the Aamodt, the new lot would have the opportunity of tying in and also have the opportunity of permitting their own well right now. Can you explain that to me please?

MR. ROSS: Madam Chair, Commissioner Mayfield, I can't hear you.

COMMISSIONER MAYFIELD: If this is approved by the Commission the new lot that would be established would have their right to permit their own well and/or tie into the Aamodt system when it comes through, if it comes through.

MR. ROSS: Madam Chair, Commissioner Mayfield, probably, the problem is that our ordinance doesn't permit that. The ordinance requires water restrictive covenants.

COMMISSIONER MAYFIELD: Did the ordinance take into consideration of the Aamodt settlement agreement?

MR. ROSS: Madam Chair, Commissioner Mayfield, yes. The ordinance applies countywide and applies to virtually any 72-12 permit which is a three acre-foot permit.

COMMISSIONER MAYFIELD: But again, under the Aamodt litigation weren't these pre-52 wells, already – weren't the water rights established, as far as pre-adjudicated at three acre-feet?

MR. ROSS: Madam Chair, Commissioner Mayfield, our ordinance doesn't relate in any way to the Aamodt settlement. If you have a right pursuant to the State Engineer for a particular use of water that's essentially irrelevant under the County's ordinance which requires water restrictions to save groundwater and surface water. And the Aamodt settlement cannot override the County Land Development Ordinance.

COMMISSIONER MAYFIELD: But each individual lot is afforded the opportunity, regardless of how many lots you have, to apply for a permit through the Office of the State Engineer. Correct?

MR. ROSS: Madam Chair, Commissioner Mayfield, yes, they have the opportunity, but once they come in for a development permit to the County they have to comply with the County's water restrictive requirements, including the one referenced here. Which means they have the opportunity to have water through the Aamodt settlement that they essentially can't use if they work through the County's ordinance and get a permit.

COMMISSIONER MAYFIELD: Madam Chair, I'll pass for staff right now.

CHAIR HOLIAN: Commissioner Chavez.

COMMISSIONER CHAVEZ: Mr. Romero, I think I heard you earlier in your presentation say that on paragraph 3, where it states that the applicant must provide proof of permits or proof that the structures on the property are legal non-conforming, did I hear you say that they had already met those requirements?

MR. ROMERO: Madam Chair, Commissioner Chavez, that is correct.

COMMISSIONER CHAVEZ: Okay. I just wanted to be sure. Thank you, Madam Chair. Thank you, staff.

CHAIR HOLIAN: Any further questions for staff? Is the applicant here? Would you like to add anything? If so, please come forward and be sworn in, and please state your name for the record.

[Duly sworn, Robert Garcia testified as follows:]

ROBERT GARCIA: My name is Robert Garcia. Madam Chair, Commissioners, thank you for allowing me to say a few words on our behalf. First of all we feel that we are not asking for something unreasonable. An acre and a half is 65,340 square feet. We are short four one-hundredths of an acre, which is approximately 43 feet by 43 feet. It's a piece of dirt smaller than these chambers. We have no problem with the requirement of a 20-foot access to the lots. We will sacrifice [inaudible] to accomplish

that even though a Santa Fe County road in front of my house is only 13 feet 6 inches wide, where the buses travel through, the fire department and the like. And County equipment.

We have no problem with the requirement to meter any new water well on the new proposed $\frac{3}{4}$ acre. The permits that we have for the water wells were issued by the State Engineer and are under his jurisdiction. In addition, we are also subject to the Aamodt federal water rights case requirements. Now, we do have a problem with the requirement to give up our water rights and meter the existing wells. I feel I am being penalized for giving my daughter a piece of land next to our place where she can help us in our later years. We have letters of support from our neighbors, Mr. and Mrs. Fred Vigil to the south, Mr. and Mrs. Joe Sanchez, Mr. and Mrs. Ron Grazell, Mr. and Mrs. Tommy Martinez to the east, and on the west side Ms. Dorothy Garcia. We have no neighbors on the north; the north is bounded by the Nambe River and Highway 502.

CHAIR HOLIAN: Are there any questions for the applicant? Seeing none, this is a public hearing. Is there anyone here from the public that would like to speak about this case? If so please come forward and please be sworn in and state your name for the record.

[Duly sworn, Norma Valdez testified as follows:]

NORMA VALDEZ: My name is Norma Valdez. Madam Chair, members of the Board, good evening. My name is Norma Jean Valdez and I'm the oldest daughter of Robert and Lucy Garcia. I would like to comment briefly about the application before you for a variance submitted by my dad, Robert Garcia, and I respectfully request your favorable consideration.

My dad has a reputation for having the utmost respect for our natural resources. Those who know him know that he takes great care of his properties and by his actions here demonstrated respectful stewardship of the environment. Since I was a little girl I planned on building a home on this property and more so recently as we are all getting older. Before you tonight is an application for a variation to the density code and road access requirements. Along with the CDRC's approval of this request back in June there are five staff recommendation conditions that Mr. Romero spoke of.

Recommendation #1 was the water use restriction to one acre-foot and the metering of the wells. Once this property is divided I have absolutely no objection to metering the well on the $\frac{3}{4}$ -acre piece and reporting water use as required, but forcing my dad and my brother to meter wells that have been on the property since well before the ordinance existed I believe is placing an unnecessary burden and restriction on them, especially when they have already proven conscientiousness and environmental responsibility.

The second recommendation for a plat survey meeting code requirements – upon your approval tonight we will immediately make arrangements for a new survey to be prepared and they will meet all County code requirements.

Recommendation is proof of permits. As Mr. Romero reported, evidence has already been provided to staff.

Recommendation #4, placement of additional dwelling units. The purpose of this request is so that I can build a home on the $\frac{3}{4}$ -acre piece. Once this has occurred there is no intention to place any additional dwellings on the property.

And finally, recommendation #5, fire department access. Having been in the fire service myself for over 30 years I clearly understand the important of providing access for fire protection and emergency medical services. There are no objections to this recommendation.

Madam Chair, Commission, as you can see we have always been very compliant of all requirements and you have our continued commitment to take great care of our natural resources on this property. I appeal to you tonight to approve the variance request and beg you to accept a modified recommendation #1 to only require metering of the newly drilled well, restricted to one acre-foot per year on the ¾-acre piece and eliminate the condition of metering the existing wells on the 1.46 acre piece. Thank you very much for your time.

CHAIR HOLIAN: Thank you, Ms. Valdez. Is there anyone else wishing to speak on this case? Seeing none, the public hearing is closed. Are there any further questions for staff or the applicant?

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: I have a question for Fire please. And I appreciate the applicant and what they brought up about going along with the variance and this goes to Marshal Patty. And this goes again for all the residents. I brought this up on, I guess some of the taxes that we talked about a little earlier. So I'm just bringing it up because it's in front of me tonight. But here we pass these special assessments and we get all these requests from different grant fundings and everything else and we get different capital requests and we [inaudible] all these taxes. But in hearing this, looking at this, we have a County road 16 feet accessing these properties throughout the district I represent. And we ask individuals to now cut in their private driveway to give 20 feet with an extra ten feet on each side.

And I just ask that we take that into consideration. And then I even was looking at the permit here, and I think in this permit we even talk about sprinklering houses as an addition request on this permit also. So am I wrong in reading this permit, that there's also a request to sprinkler the house too?

BUSTER PATTY (Fire Marshal): Madam Chair, Commissioner Mayfield, no, that is a recommendation.

COMMISSIONER MAYFIELD: Okay, so it's just a recommendation.

MARSHAL PATTY: It's a recommendation for sprinklering. We do that in almost all of our letters now. That's due to some of the insurances now. We bring it to their attention that that is a possibility. It's only a recommendation.

COMMISSIONER MAYFIELD: And I understand providing fire protection and that's great. Insurance premiums, I think the Pojoaque Valley now is at an ISO rating 6. Five, six, that's great, without a water system. I think Pojoaque Pueblo has a water system that they kind of share with some of us, anticipating the water system coming in. But a 5 is a great ISO rating. And I think that's for the improvements that we've done in our career departments and our volunteer departments there and with the fire infrastructure we have there.

And again, I guess my point on this is when we have a family that's just trying to help their family members by affording them a piece of property to live on that we put such conditions as having to give up a lot of property, respecting a hammerhead, a

turnaround, more access. But we're not even providing that infrastructure on our County roads to get these fire trucks there. And that provides a big hardship on a lot of people. I just want to put that out there and I understand it's a public safety issue, but we can't even get the fire truck to their house if we can't get down – a bus cannot even drive – a school bus has trouble driving down this County road.

So that's something I think we need to look at at the Count and re-evaluate at the County. Here we're asking a private resident to give up a big chunk of their property, and they're even conceding to do that, but yet we put all these other restrictions on them. That's not for you, Chief, it's from Land Use that we're asking for all these other restrictions. So I'm just putting that out there. And we do that, and I guess it's under our Code, Chief Sperling, that we have to do that. I don't know if we have to have the talk on a national level on this to understand the uniqueness of maybe not just our county but at least the northern part of our District 1. I'm assuming there's relay trucks. I think there's funding that comes to get us brush trucks to go and fight these fires. There's like a water truck that we can run some relay pumpers that would fight these fires. Am I wrong on that assessment? Don't we go to get funding for these from different agencies for these type of –

MARSHAL PATTY: Madam Chair, Commissioner Mayfield, when it comes to structural firefighting, we don't do structural firefighting with brush trucks.

COMMISSIONER MAYFIELD: Okay.

MARSHAL PATTY: We do have some what they call mini-pumpers, but in order to get those ISO rating that you were talking about we have to have Class A pumpers. They have to meet certain minimum requirements of wheelbase and size of truck and have to haul a minimum of 1,000 gallons on each one of them. The engines themselves, not even counting the tankers. So we do have a lot of requirements that we have to meet to get those ISO ratings down which benefits the whole Pojoaque district when it comes to their insurance ratings.

COMMISSIONER MAYFIELD: So again, we're putting restrictions on this residence to have a 20-foot driveway, when we have a 16-foot road accessing their home.

MARSHAL PATTY: Madam Chair, Commissioner Mayfield, we do have a starting point that we have to work with and with these people, they're the ones making the change on their lot. So we work with them the best that we can. We showed them what the code is. They agreed to try to meet that code or get close to it. The road issues, now that is a County issue that we are dealing with on a daily basis. We work with County roads a lot, trying to – when they're going to rebuild a road. Those are also in a legal non-conforming state, a lot of these roads. When they go to redo the roads we will work with them at that point to try to get them up to standard, which fire standard-wise is a 20-foot wide driving surface, unless it is a hydranted area. If it's a hydranted road, that standard becomes a 26-foot wide road. So we do work them on trying to improve the roads as we go along.

COMMISSIONER MAYFIELD: Again, thanks for that. I would just hope – Chief, I'll talk to you more in depth about that but we can address that at a state level, a national level, wherever it needs to be addressed. But just understand – I'm sure Santa Fe County has its challenges throughout Santa Fe County, but District 1 or some of the more rural areas have some unique challenges up there and I would hope that we would look at

the smaller trucks that would hold those 1,000-gallon water tanks that could understand the uniqueness up in that area.

MARSHAL PATTY: Madam Chair, Commissioner Mayfield, we do appreciate your concerns and we do look at this on a case by case basis, and we do everything we can to try to accommodate to the best we can to meet the intent of the code, even in some cases where we can't meet exactly what that is but we can always try to make the situation better than what it is to the point where the applicant is agreeable.

COMMISSIONER MAYFIELD: Fair enough. Commissioners, I'm going to move for approval, but I'm going to ask that we also strike the staff's request of #1, where the water use shall be restricted for one acre-foot on the existing home that has been there for arguably over 100 years. I think that is a pre-basin well on that home. The new home that's on the carve-out for the .75, when they develop that well, whatever restrictions that this Commission is affording on it, I think the applicant has agreed to that, so I would ask that that condition be changed to reflect that, and we leave the existing well as is. The applicant has been amenable to the other restrictions, so with that I would move for approval.

COMMISSIONER ANAYA: Second.

CHAIR HOLIAN: Okay. I have a motion and a second. Any further discussion? Yes, first Commissioner Chavez and then Commissioner Stefanics.

COMMISSIONER CHAVEZ: Thank you, Madam Chair. I respect Commissioner Mayfield's interest in trying to be more accommodating if you will to the applicant but I cannot support the motion. I want to respect staff's recommendation. I respect the family. I appreciate the family transfer. I really do, but the condition that we're placing on this applicant is the same condition that we place on all applicants when they're increasing the density anywhere in the county. And I think that's equitable and the right way to do it.

Commissioner Mayfield, you talk about the burden that we place on people when they want to develop the property that they own. The 20-foot access applied countywide, not only in the district that you represent. So I hear a lot from people in the area that I represent about these requirements and they seem unreasonable, where you had a 16-foot roadway and now you're expected to have a 20-foot roadway. It's a change; it's expensive; it seems like it's a burden. But at the end of the day it's the right thing to do, because we want to be sure that we can provide the emergency equipment to those properties when they're needed. So we cannot always operate under old standards or what used to be. And so I know that that's hard sometimes to accept but for those reasons I'm not going to be able to support the motion or change staff's recommendation when it comes to restriction of water and metering wells in the county. Thank you, Madam Chair.

CHAIR HOLIAN: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Madam Chair. I understand that this family has had something in the past that we're asking them to change, but I'm also concerned about an equitable standard. And if we tell this family they don't have to do water metering, and they don't have to do certain things, then we really are saying that to every future and past case, in my mind. And that's what concerns me a little bit. I think that right now water metering – the water meter and the use of water is self-reporting. We don't have people that go out and look at every water meter and see what's going on. I

don't even know if we have any staff to read the water meter reports that come in. But it is something we've required of different entities so I have a little concern there.

And I'm going to ask our County Attorney, if we put that as part of this variance will we open ourselves up to any other potential issues?

MR. ROSS: Well, Madam Chair, Commissioner Stefanics, I would say everything we do here is viewed here by other applicants. I don't think it's a direct legal precedent, what we do, because every variance is judged on its own merits, but this is an ordinance requirement that's applied broadly and not just – it's applied to all applicants across the board. And it's a very important requirement too. It's designed to reduce water use countywide, so your observation is that relieving one applicant of this responsibility obviously could affect future cases. Certainly it will create the argument on the part of future applicants that they should benefit from the same results.

COMMISSIONER STEFANICS: So Madam Chair and Steve, I recognize that we're on discussion of – discussion after a motion. Can I still ask the applicant's some questions?

MR. ROSS: Madam Chair, Commissioner Stefanics, of course.

COMMISSIONER STEFANICS: Okay. So I'd like to ask the applicant another question. Thank you for being here this evening and presenting. My question is, if this is only approved with that condition, are you going to not do it? I mean, are you going to not go ahead with the plans?

MR. GARCIA: Well, that $\frac{3}{4}$ -acre, if we're not allowed to give it to my daughter, like I told the CDRC, I just might give it to the gophers, because that land would be worthless. And I would have to really think about what other alternative we have. Because it's pretty hard – you all realize the importance of water and water rights. What staff is proposing is for me to give up my water rights and I am not prepared to do that.

COMMISSIONER STEFANICS: Well, Madam Chair, staff aren't doing it to you arbitrarily. It's in our ordinance. So that's why they're asking you to do it. But my second question is is any of the property used for agricultural purposes?

MR. GARCIA: It has been, but if my daughter is allowed to put a dwelling on that $\frac{3}{4}$ acre it wouldn't be used for agricultural purposes any longer.

COMMISSIONER STEFANICS: Okay. Thank you very much.

MR. GARCIA: If I may, the right-of-way issue is not an issue, as I said in my statement. Twenty feet is fine. Whatever the fire department codes are, we'll abide by that. Thank you.

CHAIR HOLIAN: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Commissioners, the applicant, members of the public, I think that the applicant and the discussion that we're having is relevant and I think that we're in a process now with our code rewrite that we should give consideration to the issue being brought forward. If an individual is managing their water within the parameters of the permit that they received, and they wanted to provide a family transfer for their family, that that in itself shouldn't trigger momentum to remove something that was already in place. I think where there may be some room for discussion is relative to the metering. If there's a certain amount of water than can be taken from a parcel, whatever that amount is, you have to figure out a way to calculate how much is being pulled from that entire property.

I think that the County has made a decision in the past in the code associated with taking water rights away from individuals if they're receiving a family split or family transfer, but I do think it warrants more discussion in the new code and I do think that it involves the State Engineer's Office as well that regulates water in the first place. So those are my comments. Thank you, Madam Chair.

CHAIR HOLIAN: Thank you, Commissioner. Actually, Steve, I have a question for you, because I did live out in the Pojoaque area and my husband and I had a well of course, and we had the right to use three acre-feet. But my understanding was is that we did not have three acre-feet of water rights. We just had the right to be able to use that amount of water. Correct?

MR. ROSS: Madam Chair, correct. It's a license; it's not a water right.

CHAIR HOLIAN: Yes. Commissioner Stefanics and then Commissioner Mayfield.

COMMISSIONER STEFANICS: Thank you, Madam Chair. Mike Romero, could I ask you some questions? So why could the water meter not be shared by both lots, if we approve this? There are shared wells and shared water meters other places?

MR. ROMERO: Madam Chair, Commissioner Stefanics, I think the situation in this case is the fact that there are two different wells on the property that are being accessed by the one lot itself right now. From my understanding they are not shared. There's two wells, two residences on the property, and from my understanding, obviously the wells are monitored for the parcel itself, not just for residential use but for the lot itself. Why couldn't it be shared? That may be a question maybe for Legal. I don't want to give you an incorrect answer or an answer that doesn't make sense so I'm going to refer to some assistance on this question.

COMMISSIONER STEFANICS: Okay, so Penny, or Vicki, could you shed some light on this?

PENNY ELLIS-GREEN (Land Use Administrator): Madam Chair, Commissioners, I think we could allow them to put one meter and share one single meter.

COMMISSIONER STEFANICS: Okay, so the other question I would have and this would be for Mike, Vicki, Penny – whoever wants to answer it. Can you identify a recent case where we asked an entity to decrease their current ability for water use?

MS. ELLIS-GREEN: Madam Chair, Commissioners, every plat that comes into the Land Use Department, if they don't have existing water restricting covenants have to sign water restriction covenants. In other areas of the county it's a quarter acre-foot. So you could have one area that's a 40-acre tract with a quarter acre-foot water restriction. This is only one acre-foot because it's in a traditional community. So we see virtually every plat that comes through our office sign water restriction covenants.

COMMISSIONER STEFANICS: Okay, so take that question a step further. Have we recently requested this of a property in a traditional community? I know that we've requested the quarter acre-foot in many properties, but have we done this to other people who have had the same concerns as this applicant?

MS. ELLIS-GREEN: Madam Chair, Commissioners, I'm told that John and Virginia Kraul, who came in front of this Commission about four or five months ago

had the same condition imposed. That's a case that came in front of this Commission but again, a plat that met our lot sizes that didn't need a variance for that would still have the one acre-foot restriction imposed at the platting stage when they came into Land Use but because they met the lot size they wouldn't have been in front of the Board.

COMMISSIONER STEFANICS: Thank you very much.

CHAIR HOLIAN: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I think that the comments being made by Commissioner Chavez and Commissioner Stefanics are very relevant as far as decisions that are in place or a part of the code, but I think that the fact that the applicant is bringing it up and that we're continuing to have this dialogue raises the question that just because we've done something in the past doesn't meet that what we did was the right thing to do. And I think that's the question that we're raising and the applicant is raising. I myself have benefited from a family transfer that I had to lose water rights on. I was able to achieve a lot but is that necessarily right and appropriate. I think that's the question that the applicant raises and I think that he has some good points.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, you asked the Attorney a question. I think it's a relevant question. Right now, if you go to the State Engineer there's certain areas in the county where you can apply for a license and get a license for up to three acre-feet. But Steve, in the Aamodt area, a post-Aamodt well, is it a license for three acre-feet or do you have a water right for three acre-feet?

MR. ROSS: Madam Chair, Commissioner Mayfield, any 72-12 well is a license.

COMMISSIONER MAYFIELD: So even post – what is it a post 62 or a post 52 well?

MR. ROSS: Those are regulatory touchstones.

COMMISSIONER MAYFIELD: What's a regulatory touchstone, Steve Ross? What does that mean?

MR. ROSS: It means that different circumstances occur at different times. Different regulations were imposed on wells during certain times, and so when you talk about a break point at 83, that means new rules came into effect in 83 that changed the amount of water you could draw from a domestic well. So people think in terms of post-moratorium well, pre-moratorium wells, but those are just shorthand for the restrictions applicable to wells drilled during that period.

COMMISSIONER MAYFIELD: Madam Chair, let me ask my question for the Attorney again. A well on a home that's over 100 years old, Steve, would that have a water right of three acre-feet or would that have a license of three acre-feet?

MR. ROSS: Madam Chair, Commissioner Mayfield, more likely that would have a water right associated with it but you'd have to look at the [inaudible] file.

COMMISSIONER MAYFIELD: Commissioners, that's my thoughts on this, we could potentially be taking away somebody's water right of three acre-feet on this well. It's a little different than the license, Commissioner Holian. That was just my point on this one. So I think it is a little different. And I'll just bring up a different issue, but I think it's semi-related. I asked this Commission – I was fortunate enough to receive their support on the northwest well that we were talking about. Here we have all these folks in the Tano Ridge area who have a moratorium to have a .25 acre-foot well drilled,

but then when the City of Santa Fe wants to file an application with the State Engineer to drill a 1,400 acre-foot well, and then they change it to 900 acre-feet, on the other side of the line, the County at that time for whatever reason doesn't file any protest on that.

So to me it just looks like the reason we have these well restrictions in place is to control density. And maybe that's why we have it. I understand our needs for water control, but again, I think we need to look at some of these Aamodt issues up north, if we could potentially be taking somebody's water right way. And I think it's a little different than a license, respecting that some folks get a well permit that's a license to use. But there are some folks that have well rights that are established if they're pre – and I think it's 62 well.

So with that, Commissioners, I appreciate the dialogue.

CHAIR HOLIAN: Okay. Thank you, Commissioner Mayfield. I have to add that I support the variance and I think it's wonderful that you are providing for your daughter with a lot for her use for her home, but I cannot support the variance without the staff condition for the water use restriction. I think it's really an issue of fairness. Because to my knowledge all other cases that I know of that have come before us with these restrictions have been passed with these restrictions. And it seems to me that all residents of the Pojoaque Valley should be treated equally. It really is a matter of fairness. So with that, if there's no further discussion – Commissioner Stefanics?

COMMISSIONER STEFANICS: No.

CHAIR HOLIAN: So we have a motion on the floor and a second to approve CDRC Case V 13-5140, Robert Garcia Variance.

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, just a process question. We could still entertain a motion after if this motion wouldn't pass? Thank you, Madam Chair.

CHAIR HOLIAN: Okay. With staff conditions but with the modifications to the staff conditions proposed by Commissioner Mayfield.

The motion passed by failed by 2-3 voice vote with Commissioners Anaya and Mayfield voting in the affirmative.

COMMISSIONER STEFANICS: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Stefanics.

COMMISSIONER STEFANICS: I would move to approve the variance with all the staff conditions.

COMMISSIONER CHAVEZ: Second.

CHAIR HOLIAN: I have a motion to approve the variance with all the staff conditions.

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Commissioner Anaya.

COMMISSIONER ANAYA: Discussion. Just a comment and a question for our counsel. I believe Commissioner Mayfield brings up a good point relative to the clarification relative to the license as opposed to water right, and I would ask that we pose that question to the State Engineer directly and to their counsel as to does the

County have legal authority, Steve, to remove a right if it's a water right, as opposed to a license? Do we have that authority?

MR. ROSS: Well, Madam Chair, Commissioner Anaya, we're not affecting a water right. Let's assume they have a water right and it's not a license. It's not a 72-12 well, but from what I've heard tonight I think it is. But let's assume it is a water right, it's a three acre-foot right. All the County ordinance does, it says you cannot use more than one acre-foot on this property. It doesn't affect the underlying right. So the right could be transferred to another piece of property, it could be sold to somebody, what have you. Used on some other piece of property, leased to somebody. The County's not opposing a right, a restriction directly on the property right that consists of the water right.

COMMISSIONER ANAYA: Thank you, Madam Chair.

COMMISSIONER MAYFIELD: Madam Chair,

CHAIR HOLIAN: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: So in line with Commissioner Stefanics' motion, staff did ask to remove #3, correct?

CHAIR HOLIAN: Correct. Number 3 was not entered into the record.

COMMISSIONER MAYFIELD: Thank you.

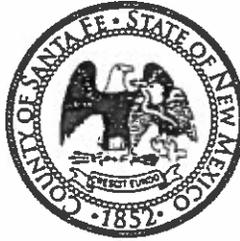
CHAIR HOLIAN: Okay. A motion and a second.

The motion passed by unanimous [5-0] voice vote.

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

CASE NO. V 13-5140

VARIANCE

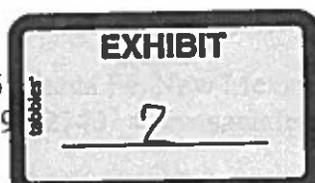
ROBERT GARCIA, APPLICANT

ORDER

THIS MATTER came before the Board of County Commissioners (hereinafter referred to as "the BCC") for hearing on August 13, 2013, on the Application of Robert Garcia (hereinafter referred to as "the Applicant") for a variance of Ordinance No. 2008-5 (Pojoaque Valley Traditional Community District), Section 12.5 (Density Standards) to allow two dwelling units on a proposed 1.46 acre lot and a variance of Article III, Section 2.4.2b.3 (a) (Road Access) to allow a road access width of less than twenty feet (20') to access three lots. The BCC, having reviewed the Application and supplemental materials, staff reports and 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. The Applicant requests a variance of Ordinance No. 2008-5 (Pojoaque Valley Traditional Community District), Section 12.5 (Density Standards) to allow two dwelling units on a proposed 1.46 acre lot and a variance of Article III, Section 2.4.2b.3 (a) (Road Access) to allow a road access of less than twenty feet (20') to access three lots.

2. The property is located at I3A Old Pueblito Road (C.R. 84), in the vicinity of Pojoaque within Section 7, Township I9 North, Range 9 East ("Property").



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3. Article III, Section 10 provides that minimum lot size in this area is 0.75 acres per dwelling unit.

4. There are currently two dwelling units and two pole barns on the property.

5. The Applicant has submitted an application for a Family Transfer land Division to divide 2.212 acres into two lots. The proposed lots will consist of 0.75 acres and 1.46 acres. The Applicant stated that he intends to give his daughter the 0.75 acres parcel and the Applicant will retain the remaining 1.46 acre parcel.

6. Article II, Section 3.I of the Code states that where in the case of a proposed development it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. It further states that a Development Review Committee may recommend to the BCC and the BCC may vary, modify or waive the requirements of the Code upon adequate proof that compliance with the Code provision at issue will result in an arbitrary and unreasonable taking of property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety. Section 3.1 provides that in no event shall a variance be recommended by a Development Review Committee nor granted by the BCC if by doing so the purpose of the Code would be nullified. Additionally, it states that in no case shall any variation or modification be more than a minimum easing of the requirements.

7. On June 20th, 2013 this Application was heard by the County Development Review Committee (CDRC). The CDRC recommended Approval with the following staff conditions:

A. Water Use shall be restricted to 1 acre feet per year, per lot. A water meter shall be installed for each lot. Annual water meter readings shall be submitted to the Land Use Administrator by January 1, of each year. Water restrictions shall be recorded in the County Clerk's Office.

B. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval.

C. The placement of additional dwelling units or Further Division of land is prohibited on the property.

D. The Applicant shall comply with all Fire Prevention Division requirements at the time of plat review.

8. At the Public Hearing before the BCC on August 13, 2013, staff recommended denial of the requested variance and requested imposition of the conditions listed in item 7.

9. The Applicant's daughter spoke in favor of the Application. There were no other members of the public present to speak in regards to this case.

10. In order to meet the minimum lot size for creating two lots, the subject parcel would need to consist of at least 1.5 acres. The subject parcel is 1.46 acres. This is a minimal easing of Code Requirements. Therefore, granting this variance request will not nullify the purpose of the Code.

WHEREFORE the Board of County Commissioners of Santa Fe County hereby approves the request for a variance of Ordinance No. 2008-5 (Pojoaque Valley Traditional Community District), Section 12.5 (Density Standards) to allow two dwelling units on a

proposed 1.46 acre lot and a variance of Article III, Section 2.4.2b.3 (a) (Road Access) to allow a road access width of less than twenty feet (20') to access three lots, subject to the following conditions:

A. Water Use shall be restricted to 1 acre feet per year, per lot. A water meter shall be installed for each lot. Annual water meter readings shall be submitted to the Land Use Administrator by January 1, of each year. Water restrictions shall be recorded in the County Clerk's Office.

B. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval.

C. The placement of additional dwelling units or Further Division of land is prohibited on the property.

D. The Applicant shall comply with all Fire Prevention Division requirements at the time of plat review.

IT IS THEREFORE ORDERED that the Application for variance is denied.

This Order was approved by the Board of County Commissioners on this 10th day of September, 2013.

BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY

By: Kathy Holian
Kathy Holian, Chair

ATTEST:

Geraldine Salazar

Geraldine Salazar, County Clerk

9/10/2013

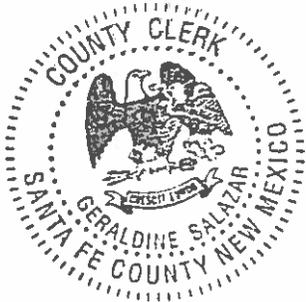


APPROVED AS TO FORM:

Stephen C. Ross

Stephen C. Ross, County Attorney

392 CLERK RECORDED 09/11/2013



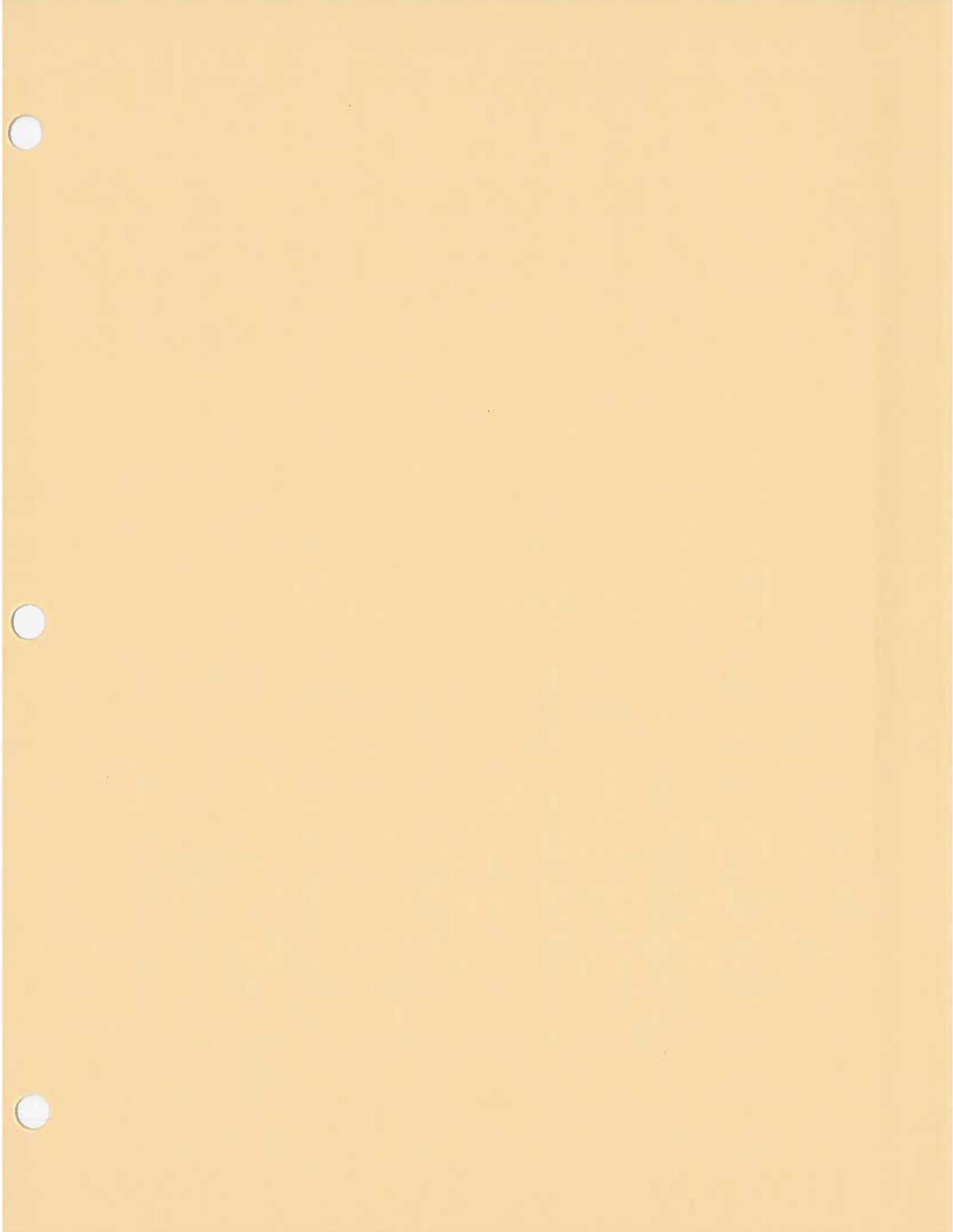
COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC ORDER
PAGES: 5

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I Hereby Certify That This Instrument Was Filed for
Record On The 11TH Day Of September, 2013 at 02:45:57 PM
And Was Duly Recorded as Instrument # 1717773
Of The Records Of Santa Fe County

Witness By Hand And Seal Of Office
Geraldine Salazar
Deputy *Muelle Salazar* County Clerk, Santa Fe, NM



Daniel "Danny" Mayfield
Commissioner, District 1

Miguel Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

CASE NO. MIS 13-5240
SANTA FE CANYON RANCH SUBDIVISION MASTER PLAN TIME EXTENSION
SANTA FE CANYON RANCH LLC AND SANTA FE COUNTY, APPLICANTS

ORDER

THIS MATTER came before the Board of County Commissioners ("BCC") for hearing on September 10, 2013, on the Application of Santa Fe Canyon Ranch LLC and Santa Fe County, (herein after referred to as "the Applicants") for a 24-month time extension of the Master Plan approval for the Santa Fe Canyon Ranch Residential Subdivision. The BCC, having reviewed the Application and supplemental materials, staff reports and having conducted a public hearing, finds that the Application is well-taken and should be granted and makes the following findings of fact and conclusions of law:

1. Article V, Section 5.2.7 of the County Land Development Code states, "Master Plan approvals may be renewed and extended for additional two year periods by the Board at the request of the Developer."
2. On September 30, 2008, the BCC granted Master Plan approval for a residential subdivision on 1,316 acres to be developed in three phases.
3. The Applicants each own a portion of the 1,316 acres subject to the 2008 Master Plan.

4. The Applicants now request a 24-month time extension of the previously approved Master Plan for the Santa Fe Canyon Ranch residential subdivision consisting of 162 lots (174 residential units) on 1,316 acres.

5. The property is located off Entrada La Cienega along Interstate 25, within the La Cienega/La Cieneguilla Traditional Historic Community, within Sections 1, 2, 10, 12, 13, Township 15 North, Range 7 East and Sections 5, 6, 7, 8, Township 15 North, Range 8 East.

6. In support of the Application, the Applicants submitted a letter of request, proof of ownership, and proof of legal lot of record and approved plans.

7. Santa Fe County is requesting the extension in order to work with the community and the La Bajada Ranch Steering Committee to review and amend the Master Plan.

8. There were 5 members from the public that spoke in favor of this Application.

WHEREFORE, THE BCC HEREBY APPROVES the Application for a 2-year time extension of the Master Plan for the Santa Fe Canyon Ranch Subdivision which will now expire on September 10, 2015.

IT IS SO ORDERED:

This Order was approved by the Board of County Commissioners on this _____ day of _____, 2013.

**BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

By: _____
Kathy Holian, Chair

ATTEST:

Geraldine Salazar, County Clerk

APPROVED AS TO FORM:



Stephen C. Ross, County Attorney

DRAFT

- XVIII. B. 4. BCC Case # MIS 13-5240 Santa Fe Canyon Ranch Time Extension. Santa Fe Canyon Ranch L.L.C. and Santa Fe County, Applicants, Request a 24-Month Time Extension of the Previously Approved Master Plan for a Residential Subdivision Consisting of 162 Lots (174 Residential Units) on 1,316 Acres to Be Developed in Three (3) Phases. The Property is Located Off of Entrada La Cienega Along Interstate 25 in the La Cienega/La Cieneguilla Traditional Historic Community, within Sections 1, 2, 10, 12, 13, Township 15 North, Range 7 East and Sections 5, 6, 7, 8, Township 15 North Range 8 East (Commission District 3)

VICENTE ARCHULETA (Case Manager): Thank you, Madam Chair. On September 9, 2008, the Board of County Commissioners met and tabled the master plan until the September 30, 2008 BCC meeting. On September 30, 2008, the Board of County Commissioners granted Master Plan approval for a residential subdivision consisting of 162 lots, 174 residential units, on 1,316 acres to be developed in 3 phases.

The Applicants are requesting a two-year time extension of the Santa Fe Canyon Ranch Master Plan approval under Article V, Section 5.2.7.b of the County Land Development Code. The Applicant states: Santa Fe County is currently working with the community and the La Bajada Ranch Steering Committee to review and amend the master plan. This time extension will allow staff additional time to complete this process.

Article V, Section 5.2.7.b of the Code states, Master Plan approvals may be renewed and extended for additional two-year periods by the Board at the request of the developer. The time extension would render the Master Plan approval valid until September 10, 2015.

Staff recommendation is approval for a two-year time extension of the Master Plan for the Santa Fe Canyon Ranch Residential Subdivision. Thank you, Madam Chair.

CHAIR HOLIAN: Thank you, Vicente. Are there any questions for staff?

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, so let me just ask this of our attorney, please. So are we now asking to roll the two together? The County property and I guess the – let me ask this question a different way. The County purchased a parcel of the greater master plan when the County acquired its portion of it. Correct?

MR. ROSS: Yes. Madam Chair, Commissioner Mayfield, there are now two owners of this master plan. Ourselves and the sellers and this is an alternative to the following agenda item. This one proposes that the status quo be completely accepted. The next case is the one that you heard last month and it proposed to separate the two parcels based on ownership. So this one would retain the original master plan and simply extend it for two years.

COMMISSIONER MAYFIELD: Okay. So you're going to help me going back to the acquisition of this original ranch when the County decided to purchase it. So when the County decided to originally purchase this property, the County ordered an appraisal, correct?

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MR. ROSS: Right.

COMMISSIONER MAYFIELD: And that appraisal included the whole master plan as the acquisition price? Or did it include – and was that part of the value of that acquisition price? Or was it when it was to be separated as the County's portion of that acquisition of what we actually acquired?

MR. ROSS: Madam Chair, Commissioner Mayfield, the appraisal was done with about three or four different scenarios.

COMMISSIONER MAYFIELD: Okay. So the County – so did the whole master plan have any value to it?

MR. ROSS: Madam Chair, Commissioner Mayfield, I don't understand.

COMMISSIONER MAYFIELD: Okay, well, there was a master plan that came with the whole piece of property at the time, correct? When the County went into negotiations to acquire this property?

MR. ROSS: Madam Chair, Commissioner Mayfield, yes. It was master planned.

COMMISSIONER MAYFIELD: And that's what we're looking at right now to extend.

MR. ROSS: Right.

COMMISSIONER MAYFIELD: So, when the County purchased its portion of it, it separated – so what is that separation? What does the County again now own and what does, I guess, the private owners own?

MR. ROSS: Madam Chair, Commissioner Mayfield, the County owns about a third of it.

COMMISSIONER MAYFIELD: Okay.

MR. ROSS: Of the original property.

COMMISSIONER MAYFIELD: So and now you're proposing to put it all together again and ask in this proposal – I'm not saying you, Mr. Ross, but staff is asking to join it together and ask for a full extension, a two-year extension.

MR. ROSS: Madam Chair, Commissioner Mayfield, it's all part of one master plan right now. The following application separates it into two pieces but right now it's all one master plan. So what this application would do would be to simply preserve the status quo ante which is a master plan on parcels owned by two different owners.

COMMISSIONER MAYFIELD: Okay. Again my question though is when the County acquired this property was there any value of the whole intact master plan?

MR. ROSS: Madam Chair, Commissioner Mayfield, I –

COMMISSIONER MAYFIELD: Well, let me ask the question this way, Steve, Mr. Ross. There was an approved master plan at one time on this property as a whole. Correct?

MR. ROSS: Madam Chair, Commissioner Mayfield, it still exists on the property.

COMMISSIONER MAYFIELD: Still exists on the property.

MR. ROSS: But then the property was split and the County bought whatever portion the County purchased. Well, I know what it purchased. I have it in front of me. So how can you split a master plan in half at the time and why didn't the County

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take that into consideration when it split that, when we – I want to say we even though it was before I got on the bench. But when that acquisition happened, why wasn't that master plan at that time addressed?

MR. ROSS: Madam Chair, Commissioner Mayfield, it's very common to have master planned communities owned by different owners. Very common. So it wasn't considered to be an unusual circumstance.

COMMISSIONER MAYFIELD: Okay. So I know, when an individual sells a property and a new individual acquires it, in this case the County acquired it, is there any value to have, when you acquire a piece of property, to have an already approved master plan from Santa Fe County? Let me ask you this question, Mr. Ross. Did that factor into the appraised value of the acquisition of this ranch, when the County purchased it?

MR. ROSS: Madam Chair, Commissioner Mayfield, I'm not sure it played any part in the purchase price but it certainly did in the appraisal.

COMMISSIONER MAYFIELD: I'm sorry. Could you repeat that please?

MR. ROSS: An appraisal, obviously, of a property with an entitlement is affected by that entitlement.

COMMISSIONER MAYFIELD: Okay. So it had a value as a whole, approved master plan. Correct?

MR. ROSS: Well, it has value because it has an entitlement on it – development potential.

COMMISSIONER MAYFIELD: Explain the entitlement to me then.

MR. ROSS: It has some degree of development approval.

COMMISSIONER MAYFIELD: Okay, so what was the degree of development approval?

MR. ROSS: Well, it had a master plan on it that called for a number of residential properties on the property. But it wasn't a complete entitlement because it was only a master plan development at that point that had not been platted.

COMMISSIONER MAYFIELD: Had not been platted. And let's talk about the water also. There was also a potential of taking County water out to that property at that time? Or there was an existing well at that property? Because the County did not acquire any water rights with that property. As a matter of fact I don't think the County left the water rights on the piece it did not acquire. Correct?

MR. ROSS: Madam Chair, Commissioner Mayfield, the County did not acquire the water rights.

COMMISSIONER MAYFIELD: They left that on the part they chose not to take, correct?

MR. ROSS: In a sense, yes.

COMMISSIONER MAYFIELD: Explain in a sense.

MR. ROSS: Well, water rights are transitory, movable pieces of property. They could have easily been acquired and moved off the property. They're appurtenant to sources like groundwater or surface water, but that's not really part of the thinking, not acquiring the water rights.

COMMISSIONER MAYFIELD: That's all the questions I have for now, thank you, Madam Chair, Mr. Ross.

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CHAIR HOLIAN: Any further questions? I believe that since the applicant is Santa Fe County I do not have to ask the applicant to come forward. So this is a public hearing. Is there anyone here who would like to speak on this case, either in favor or in opposition? A show of hands then. Please come forward.

COMMISSIONER MAYFIELD: Madam Chair, may I ask a quick question.

CHAIR HOLIAN: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: This is a joint applicant. There's not just Santa Fe County as applicant. Is the other applicant here also? That's how I'm reading this. Joint applicants.

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, on this point, it's a good question. It's a question I asked at the last meeting before we heard this. The applicants would have to apply for the extension. The County being one applicant and the owners being the other, the other parcel. Did they apply for this extension?

MR. ROSS: Madam Chair, Commissioner Anaya, yes.

COMMISSIONER ANAYA: Thank you.

CHAIR HOLIAN: Did you have something to add?

MR. ARCHULETA: Madam Chair, the applicants gave Santa Fe County the approval to go forward with the master plan.

CHAIR HOLIAN: Thank you, Vicente. Any further questions? Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, let me just ask that. Is that – does Santa Fe County represent the other applicant and can Santa Fe County do that? And that's a question for the attorney.

MR. ROSS: Madam Chair, Commissioner Mayfield, they signed the application and have agreed to go forward with us to see this approval. We're not representing them but they are co-applicants.

COMMISSIONER STEFANICS: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Stefanics.

COMMISSIONER STEFANICS: I think I'm a little confused. So on this case, not the next one, but on this case, Santa Fe County and the other owner would both have extensions for two years.

MR. ROSS: Madam Chair, Commissioner Stefanics, yes. The entire master plan would be extended for two years, preserving the status quo which currently exists.

COMMISSIONER STEFANICS: And Madam Chair, I guess I would ask staff, but maybe I'll wait to hear from the community about their concerns. Thanks.

CHAIR HOLIAN: Okay. Thank you, Commissioner. Please come forward and please be sworn in and state your name and address for the record.

[Duly sworn, Carl Dickens testified as follows:]

CARL DICKENS: I would like just to say – as chair of the La Cienega Valley Association I would like to say that our association supports the extension of the master plan. Thank you.

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CHAIR HOLIAN: Thank you. Is there anyone else who would like to speak?

[Duly sworn, J.J. Gonzales testified as follows:]

J.J. GONZALES: Commissioners, Madam Chair, I'm a resident of La Cienega. I'm also an adjoining property owner. I own a piece of property next to the development. We would like to ask the County to extend this master plan and eliminate a big controversial amendment of changing the source of water for this development. Years ago, the past Board of County Commissioners, back in 2008, they denied water service to this area three separate times. This amendment I think goes against a lot of what we have in the community, the La Cienega, La Cieneguilla community plan and to preserve the status quo I would ask each and every one of you to grant the two-year extension to this master plan. Thank you very much.

CHAIR HOLIAN: Thank you, Mr. Gonzales.

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Thank you, Madam Chair and Mr. Gonzales, thank you for your testimony. You're also on the CDRC, correct?

MR. GONZALES: Yes, sir.

COMMISSIONER MAYFIELD: Did you take a position on this on the CDRC?

MR. GONZALES: I recused myself.

COMMISSIONER MAYFIELD: Okay. Just so we have that on the record also. Thank you.

MR. GONZALES: Thank you.

CHAIR HOLIAN: Is there anyone else here who would like to speak on this case? Please come forward.

[Duly sworn, Kier Careccio testified as follows:]

KIER CARECCIO: My name is Kier Careccio. I live close to La Cienega in a little valley called El Cañon. It's a whole community that's there and I'm also the vice president of the La Cienega Valley Association. And I'd like to urge you all to approve the amendment – not the amendment, the extension. It's way too confusing to go down the amendment road at this time. I think it needs to be thought out in great detail and I think the two-year time frame would give some time for that to happen. Thank you.

CHAIR HOLIAN: Thank you, Mr. Careccio. Is anyone else here who would like to speak? Please come forward.

[Duly sworn, Nick Jones testified as follows:]

NICK JONES: I recently moved to La Cienega a few years ago and I'd just like to say how impressed I am with the La Cienega Valley Association and the amount of work they do down there and the amount of work they put into the original master plan and working on that with the County Commissioners. And I'd hate to see any of that work go to waste, so I fully support the extension.

CHAIR HOLIAN: Thank you, Mr. Jones.

[Duly sworn, Robert De Young testified as follows:]

ROBERT DE YOUNG: I'm Robert De Young. I'm a La Cienega resident and I too support the extension and oppose the amendment and to keep it brief I have no additional comments.

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CHAIR HOLIAN: Thank you, Mr. De Young. Any further comments?
Commissioner Mayfield, and then Commissioner Anaya.

COMMISSIONER MAYFIELD: Madam Chair, I've already had a say so
I'll defer to Commissioner Anaya.

CHAIR HOLIAN: If there are no further comments this public hearing is
closed. Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I wrote an entire page of
comments that I was going to make but then I looked at the clock and I summed it up in
one sentence, because I think it's getting late. And that sentence is this. We agree, we
disagree. We listen and we learn and we act. That goes for this Commission. That goes
for staff. That goes for communities at large. What I would say in addition to that is I
think from time to time all of us find ourselves making missteps associated with what we
may do or think about doing. But it's not a matter of whether we disagree with one
another or we need to have debate. It's how we engage that debate and have that
conversation. Staff, over this issue, I think by some were put in the position of being
terrible rotten people that didn't know what they were doing. I think that maybe some of
those remarks came out of passion, but however they came about they engaged all of us
in a thought process and some critical analysis.

And from that, I think we find ourselves in this position and from that I'm
appreciative of those comments and remarks that were made that provided some insight I
think to all of us. I would say as we progress and we make other decisions that we all be
mindful that no malice exists when we're trying to make decisions. We just try and do the
best we can and as being living beings from time to time all of us maybe make wrong
decisions on how we might choose a path.

But I'm here to defend the community. I'm here to defend the staff, and for us to
take those disagreements and debate and have a real candid discourse and get to some
decisions that make sense. And I think this is one of them. I would move for approval.

COMMISSIONER CHAVEZ: Second.

CHAIR HOLIAN: Okay. I have a motion and a second for approval of the
Santa Fe Canyon Ranch Master Plan extension. Any further discussion?

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair and Commissioner
Anaya, thank you for the comments. I really do appreciate them and I appreciate the
public. Just so I can have some clarification, and this is for our County Attorney. So if it
was not – if the extension did not happen for two years, what would happen?

MR. ROSS: Madam Chair, Commissioner Mayfield, if we didn't have an
extension or the next action the master plan would expire.

COMMISSIONER MAYFIELD: Okay. And what happens if the master
plan expires? Then there would be the potential development of the 162 lots would just
be null and void right now, correct?

MR. ROSS: Correct.

COMMISSIONER MAYFIELD: And then we would just have to look at
that whole area again as split up individually to the applicant and then the Santa Fe
County's portion would not have to go through new master planning individually.

MR. ROSS: Or collectively.

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COMMISSIONER MAYFIELD: Or collectively. I guess collectively. Well, they would be individual parcels now, so we own our piece and they own their piece, right? That master plan would go away.

MR. ROSS: That's the situation on the ground, but like I said before, you can combine parcels and master plan them if you want to.

COMMISSIONER MAYFIELD: Okay. I appreciate that.

MR. ROSS: As a result of the planning process you'd come up with something that's proposed and you'd have to start at ground zero again with a master plan, although the new code kind of does away with master plans, but –

COMMISSIONER MAYFIELD: Sure. So even the County's portion – now let's just talk about the County's acquisition, La Bajada or Santa Fe County Ranch. So if this was not null and void and then the second action item that we have in front of us, whatever action happens there, the County then would start with I guess day one on our acquisition piece, knowing that we had a discussion earlier with our La Bajada Steering Committee of what we would do with that piece of property. Correct?

MR. ROSS: Are you saying if the master plan expires and then we go through a process and that results in a plan, then we'd have to start with that, yes. That's where we'd start.

COMMISSIONER MAYFIELD: I just wanted that out there. So now let's go one – I'm just going to go to the summary. So on Santa Fe County's Canyon Ranch, right now it consists of 162 lots. So on the 162 lots, it was approved – again, it's still conceptually the master plan. There's a lot more phases it has to go through. But it was done in three phases. Phase 1 consisting of 80 lots on 200 acres. Steve, just help me out. Was that 80 acres on what we acquired in our piece or was that on the other piece?

MR. ROSS: Madam Chair, Commissioner Mayfield, there some high-density residential on our piece and low-density residential on the other piece, and I don't remember how they parsed out in Phase 1.

COMMISSIONER MAYFIELD: Can somebody answer that question for me, where Phase 1 and Phase 2 of 76 lots, and then Phase 3, please.

MR. ARCHULETA: Madam Chair, I didn't get that question from you.

COMMISSIONER MAYFIELD: Okay. So right now, we're doing an extension and the extension consisted of 162 lots, 174 dwelling units, and I'll just read the paragraph as it's stated, which will be developed in three phases, Phase 1 consisting of 80 lots on 200 acres, Phase 2 consisting of 76 lots on 199 acres, and Phase 3 consisting of six lots, three dwelling units per lot on 912 acres. I know we don't own 912 acres so where is Phase 1 potentially, and where is Phase 2? Is that on the piece that Santa Fe County acquired or is it on the other applicant's piece?

MR. ROSS: Madam Chair.

CHAIR HOLIAN: Yes.

MR. ROSS: I found that in the packet, Commissioner Mayfield. It's page 6 in the packet. It shows – it lays out –

COMMISSIONER MAYFIELD: Tell, me. Is it Santa Fe County's piece or the applicant's piece?

MR. ROSS: Phase 1 is half of the high-density residential on the County's piece.

COMMISSIONER MAYFIELD: Okay. And Phase 2?

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MR. ROSS: Phase 2 is the other half of the high-density residential on the County's piece, and Phase 3 is the lower density residential on the part that we don't own.

COMMISSIONER MAYFIELD: Okay. And again, I know this is a potential extension for two years and we're all vetted out and I appreciate all the public's testimony, so this will still be a vetting process and we have our steering committee who is going to vet out a lot of other potential requests that will come to this piece of property. But now going in for the BDD water extension, knowing that Santa Fe County did not acquire the water rights with that piece of property out there, and that factored in I think into the acquisition price, as far as I guess what I'm seeing and when we acquired this, and I do again, I appreciate what Commissioner Anaya said.

And I'm not passing judgment on anybody. I want that to be known. Staff, and I know staff put a lot of work into this. But I do know a lot of taxpayer dollars were spent on this money. A lot of taxpayer money was spent on this acquisition. And now we're talking about potentially taking our waterline out to this property and that's fine. I mean, to potentially develop this property you have to have water out there. Otherwise we won't be able to develop this property if we don't have water on it. And as it is today, Santa Fe County does not have water on the piece that we acquired.

So I recognize that. But also though how would a potential second piece of property, if this development would go through in phases, they also now would then be able to interconnect with potentially the BDD water also, correct?

MR. ROSS: Madam Chair, Commissioner Mayfield, are you talking about the third phase, owned by the other –

COMMISSIONER MAYFIELD: Well, again, I don't know what phases it's in. Maybe it's part of Phase 2, maybe it's part of Phase 3.

MR. ROSS: I can't really tell from the map. The La Cienega Ordinance says that if you're within 200 feet you have to hook up. And I don't know whether it's 200 feet between the boundary of Phase 2 which is on the County property, and the lower-density residential on the other parcel. It looks to me to be more than 200 feet, so if that's the case there would be no obligation to do that.

COMMISSIONER MAYFIELD: But again, our ordinance as it states right now is if we take it out to our property, and if that second phase is within 200 feet, they would be required to have to hook up their development into also, correct?

MR. ROSS: Madam Chair, Commissioner Mayfield, I don't think that's clear from this diagram, because there is a large lot that the County acquired in between Phase 2 and the low-density residential lot that's still owned by the original owners.

COMMISSIONER MAYFIELD: And again, when we acquired this piece, we acquired it with no water rights. And now, I'm seeing all the water rights for sale out there, because I see it on the highway when I'm driving, all the water rights are for sale on the highway piece. So I guess that might be just, well, an opportunity to know they could hook up to the BDD water system, right? If the waterline goes out there.

MR. ROSS: Madam Chair, Commissioner Mayfield, like I said, I don't know whether the requirements of the ordinance are satisfied given the situation on the ground here as depicted on this page 6. To me it looks like it's more than 200 feet, in which case there would be no obligation to move the water. It's not our obligation. It

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would be the obligation of the owners to hook into the BDD water and cross that dead space between the two parcels, which is its own separate lot.

COMMISSIONER MAYFIELD: But again, hearing my colleagues, this extension and the members here, the community members will allow us this opportunity to vet this out over the next couple years. Steve, excuse me, Madam Chair, Mr. Ross, how close is the BDD line to our portion of the property?

MR. ROSS: Madam Chair, Commissioner Mayfield, it's in County Road 50, which means it abuts the property on that long, skinny piece that goes to the north. And it's also on 50-F, up by Las Lagunitas, up by the interstate exchange which is roughly 500 feet away.

COMMISSIONER MAYFIELD: So if we wanted to just to help me just get a visual, and everybody who's listening, who understands the property, if we wanted to take BDD water to the actual residence that is on the piece of property that we own, how long would the connection to that be? Where are BDD line is?

MR. ROSS: Madam Chair, are you talking about the ranch?

COMMISSIONER MAYFIELD: The home, the home, the ranch that's on that.

MR. ROSS: Oh. Oh, jeez.

COMMISSIONER MAYFIELD: It may be a question for staff.

MR. ROSS: It's a ways.

CHAIR HOLIAN: Vicente, can you tell us about how far that is?

MR. ARCHULETA: Madam Chair, Commissioner Mayfield, off of County Road 50 you're looking at probably 2,000 feet from County Road 50 to where the houses would be.

COMMISSIONER MAYFIELD: Okay.

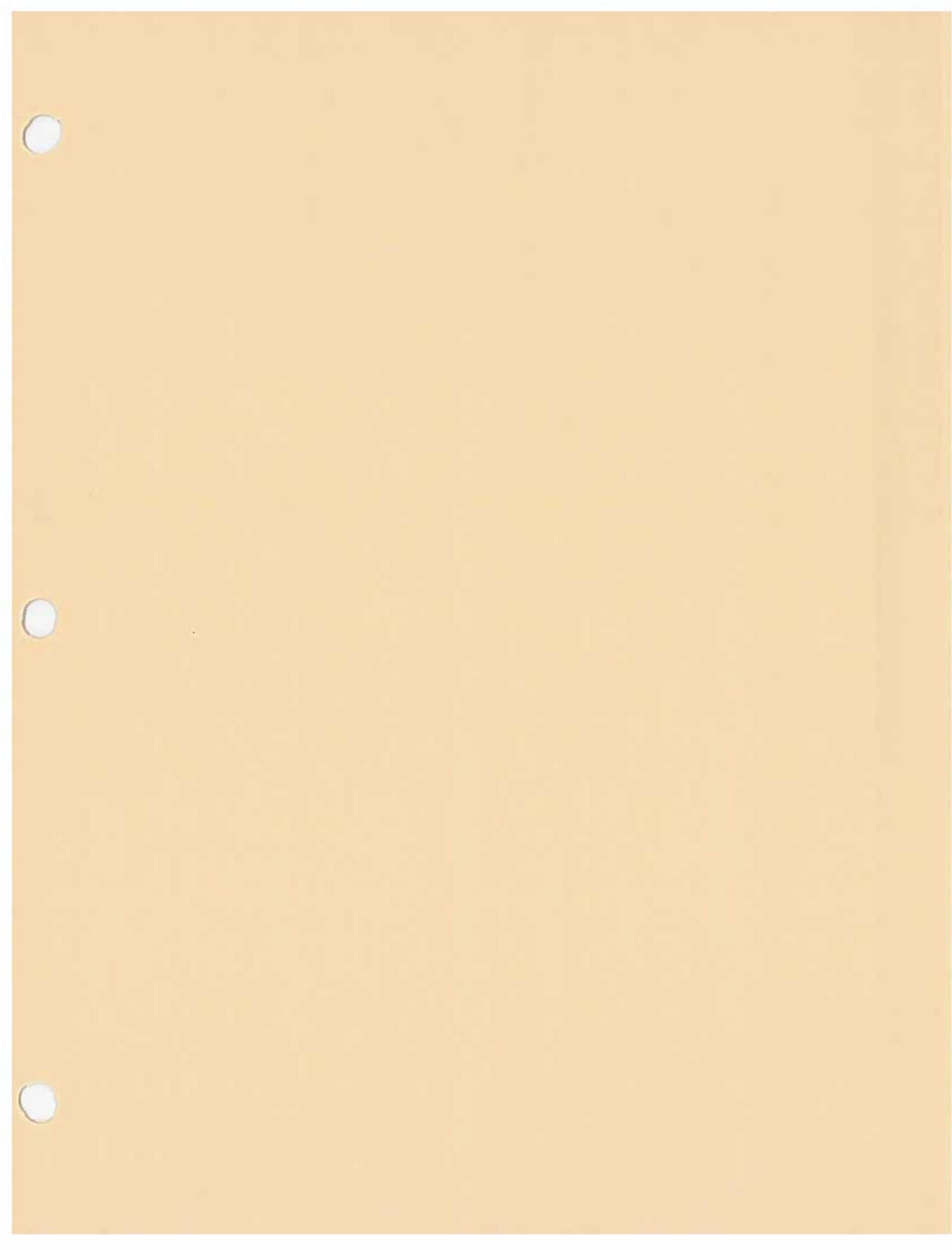
MR. ARCHULETA: That may even be longer, farther. And then from the Las Lagunitas, you're looking at a lot further than that.

COMMISSIONER MAYFIELD: That's on that other piece of property. So we could relatively get our water to that front side of the property relatively quick. For potential development on the County's piece. Okay. That's all I have. Thank you, all. That's all I have.

CHAIR HOLIAN: Any further discussion? There is a motion and a second to approve the Santa Fe Canyon Ranch master plan extension.

The motion passed by unanimous [5-0] voice vote.

- XVIII. B. 5. **Z/S 13-5130 La Bajada Ranch Master Plan Amendment.**
Santa Fe County, Applicant, Requests a Master Plan Amendment for a Previously Approved Master Plan (Santa Fe Canyon Ranch) to Amend the Water Supply Plan and to Provide Consistency with the Current Property Owner Boundaries. The Amended Master Plan Will Allow for 156 Residential Lots on the 470.55 Acres That the County of Santa Fe Now Owns. The Amended Master Plan Will Utilize the Santa Fe County Water Utility (Instead of the Previously Proposed New On-Site Community Water System). The



Daniel "Danny" Mayfield
Commissioner, District 1

Miguel Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

To: Santa Fe County Board of County Commissioners

From: Teresa C. Martinez, Finance Division Director

Via: Katherine Miller, County Manager

Date: October 1, 2013

Re: Request Authorization Of The Use Of District 1 Capital Funds, Per Capital Outlay Policy, Allocating \$18,000 For A Solar System At The Chimayo Fire Station In Santa Fe County. (Finance/Teresa Martinez)

BACKGROUND

The Board of County Commissioners previously reviewed and approved the Capital Improvement Plan. The Plan allocated \$200,000 to each commission district to be used for capital projects within each respective district.

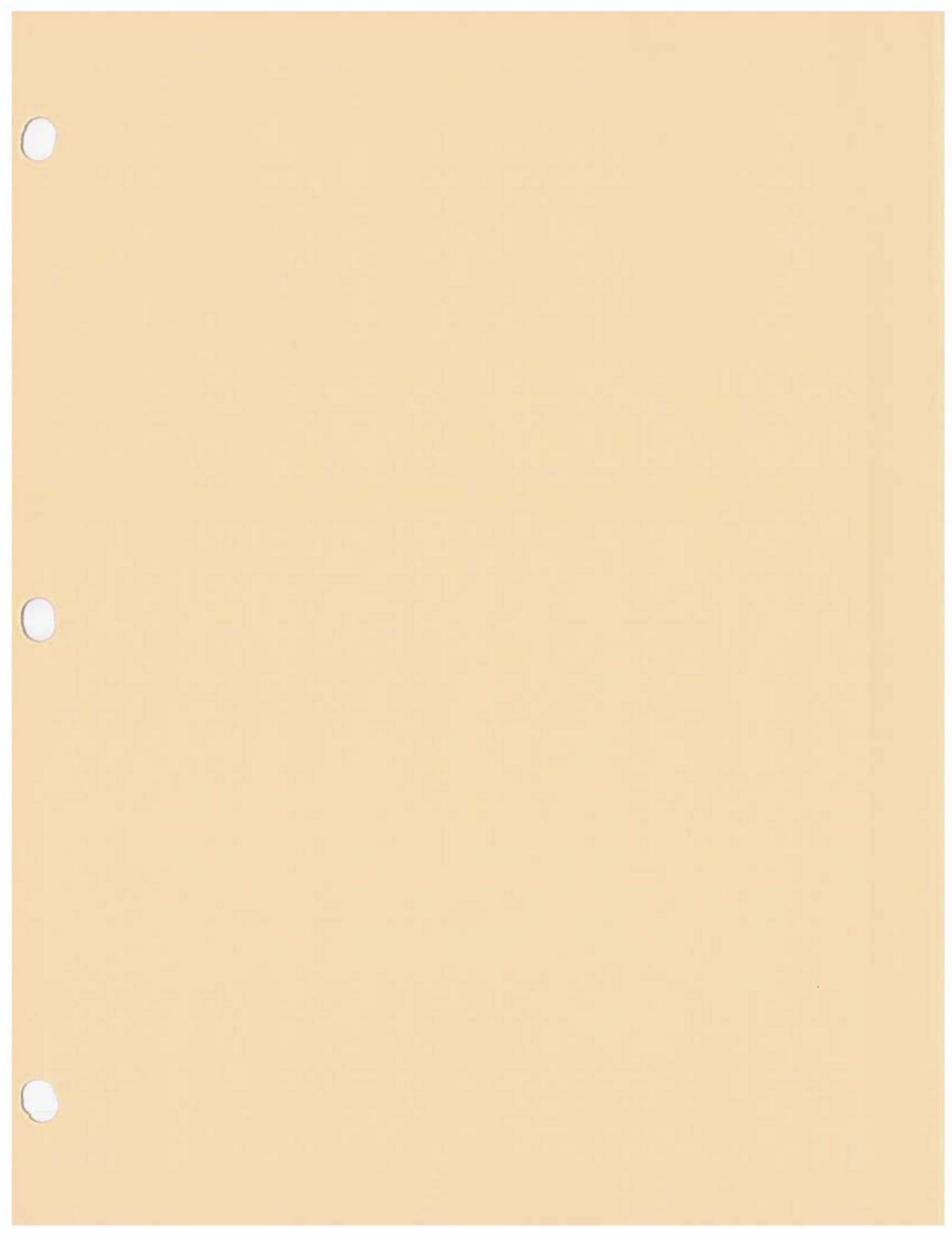
ISSUE

In FY 2014, the funds were directly budgeted into a unique cost center for each commission district. The budget established includes the annual allocation of \$200,000 and the carryover of any unspent funds from the previous fiscal year. The Finance Division will continue to maintain a separate spreadsheet that details each capital project by commission district.

SUMMARY

The Finance Department is requesting funding for a solar system to be placed on the roof of the Chimayo Fire Station. The station may accommodate a four to five kilowatt system which would generate 80-100% of the station's electrical needs. New Energy Economy funds totaling \$5,545 will also assist in this funding request.

The Finance Department requests BCC authorization for the use of District 1 capital funds in the amount of \$18,000 for the solar system at the Chimayo Fire Station. The request is up to \$18,000 and the use of District 1 funds will be based on actual costs, net of the New Energy Economy fund contribution.



Danny "Daniel" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: October 8, 2013

TO: Board of County Commissioners

FR: Bill Taylor, Procurement Manager *BT*

VIA: Jeffrey Trujillo, ASD Director
Pablo Sedillo III, Public Safety Department Director

RE: *Request authorization for approval and signature authority for the County Manager to execute purchase order for the replacement of 32 HVAC units at the Adult Detention Facility in the amount of \$450,303.44 inclusive of GRT*

Background:

In January 2013 the Purchasing Division issued an Invitation for Bid (IFB) for the repair, maintenance and replacement of HVAC units at the Corrections Facilities. On March 26, 2013 the BCC approved multi-award Price Agreements to:

Air Management Services, Inc.
Welch's Boiler, Inc.
Mechanical Control Solutions
B & D Industries, Inc.

Issue:

There are currently thirty-two (32) HVAC units at the Adult Detention Facility that were installed in 1997 which have reached the end of their life-cycle and are in need of replacement. The determination was made to solicit quotes from the vendors on the above referenced Price Agreement and quotes were received from all four. The lowest, responsive quote was received from Air Management Services, Inc. in the amount of \$450,303.44 inclusive of GRT.

Request:

Pursuant to SFC Ordinance 2006-60, any purchase order or contract amount that exceeds \$250,000 must be approved by the Board of County Commissioners. Therefore, it is the request of the Purchasing Division that the County Manager be granted signature authority to execute the purchase order to Air Management Services, Inc. in the amount of \$450,303.44 exclusive of GRT for the removal and installation of thirty-two (32) HVAC units at the Adult Detention Facility.

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QUOTE SHEET

Item #	Manufacturer	Model number	Location (Maintenance)	Price	Price Written in Words	Manufacturer	Model number	MSRP
1	Sterling	QVRT400HM	(RTU-E1)	\$ 9,840.00	NINE THOUSAND EIGHT HUNDRED FORTY	STERLING	RT40A1D01H61P10A681E1G312	21,000.00
2	Trane	YCD036C4HBE	(EV2)	\$ 5,483.00	FIVE THOUSAND FOUR HUNDRED EIGHTY THREE	CARRIER	48HCEA04A2M6-082CO	15,374.00
3	Sterling	QVRT400HM	(EV3)	\$ 9,840.00	NINE THOUSAND EIGHT HUNDRED FORTY	STERLING	RT40A1D01H61P10A681E1G312	21,000.00
4	Sterling	QVRT400HM	(RTU-E2)	\$ 9,840.00	NINE THOUSAND EIGHT HUNDRED FORTY	STERLING	RT40A1D01H61P10A681E1G312	21,000.00
5	Trane	YCD102C4HCAB	(RTU-E3)	\$ 8,236.00	EIGHT THOUSAND TWO HUNDRED THIRTY SIX	CARRIER	48HCE09B2M6-082CO	28,122.00
6	Trane	YCD102C4HCAB	(RTU-E4)	\$ 8,236.00	EIGHT THOUSAND TWO HUNDRED THIRTY SIX	CARRIER	48HCE09B2M6-082CO	28,122.00
7	Trane	YCD102C4HCAB	(RTU-E5)	\$ 8,236.00	EIGHT THOUSAND TWO HUNDRED THIRTY SIX	CARRIER	48HCE09B2M6-082CO	28,122.00
8	Trane	YCD300B4HAF4	(RTU-E7)	\$ 17,321.00	SEVENTEEN THOUSAND THREE HUNDRED TWENTY ONE	CARRIER	48HCE09B2M6-082CO	57,517.00
9	Trane	YCD102C4HCAB	(RTU-E8)	\$ 8,236.00	EIGHT THOUSAND TWO HUNDRED THIRTY SIX	CARRIER	48HCE09B2M6-082CO	28,122.00
10	Trane	YCD102C4HCAB	(RTU-E9)	\$ 8,236.00	EIGHT THOUSAND TWO HUNDRED THIRTY SIX	CARRIER	48HCE09B2M6-082CO	28,122.00
11	Trane	YCD102C4HCAB	(RTU-D3)	\$ 8,236.00	EIGHT THOUSAND TWO HUNDRED THIRTY SIX	CARRIER	48HCE09B2M6-082CO	28,122.00
12	Trane	YCD102C4HCAB	(RTU-D1)	\$ 8,236.00	EIGHT THOUSAND TWO HUNDRED THIRTY SIX	CARRIER	48HCE09B2M6-082CO	28,122.00
13	Trane	YCD102C4HCAB	(RTU-C5)	\$ 8,236.00	EIGHT THOUSAND TWO HUNDRED THIRTY SIX	CARRIER	48HCE09B2M6-082CO	28,122.00
14	Trane	YCD102C4HCAB	(RTU-C1)	\$ 8,236.00	EIGHT THOUSAND TWO HUNDRED THIRTY SIX	CARRIER	48HCE09B2M6-082CO	28,122.00
15	Trane	YCD036C4HBE	(RTU-C4)	\$ 5,483.00	FIVE THOUSAND FOUR HUNDRED EIGHTY THREE	CARRIER	48HCEA04A2M6-082CO	15,374.00
16	Trane	YCD102C4HCAB	(RTU-C2)	\$ 8,236.00	EIGHT THOUSAND TWO HUNDRED THIRTY SIX	CARRIER	48HCE09B2M6-082CO	28,122.00
17	Trane	YCD102C4HCAB	(RTU-C3)	\$ 8,236.00	EIGHT THOUSAND TWO HUNDRED THIRTY SIX	CARRIER	48HCE09B2M6-082CO	28,122.00
18	Trane	YCD102C4HCAB	(RTU-B3)	\$ 8,236.00	EIGHT THOUSAND TWO HUNDRED THIRTY SIX	CARRIER	48HCE09B2M6-082CO	28,122.00
19	Trane	YCD102C4HCAB	(RTU-B2)	\$ 8,236.00	EIGHT THOUSAND TWO HUNDRED THIRTY SIX	CARRIER	48HCE09B2M6-082CO	28,122.00
20	Trane	YCD036C4HBE	(RTU-B4)	\$ 5,483.00	FIVE THOUSAND FOUR HUNDRED EIGHTY THREE	CARRIER	48HCEA04A2M6-082CO	15,374.00

2014-0100-CORR/IC HVAC REPLACEMENT AT ADF
QUOTE SHEET

21	Trane	YCD102C4HCAB	(RTU-B5)	\$ 8,236.00	EIGHT THOUSAND TWO HUNDRED THIRTY SIX	CARRIER	48HCED09B2M6-082CO	28,122.00
22	Trane	YCD102C4HCAB	(RTU-B1)	\$ 8,236.00	EIGHT THOUSAND TWO HUNDRED THIRTY SIX	CARRIER	48HCED09B2M6-082CO	28,122.00
23	Trane	YCD102C4HCAB	(RTU-A1)	\$ 8,236.00	EIGHT THOUSAND TWO HUNDRED THIRTY SIX	CARRIER	48HCED09B2M6-082CO	28,122.00
24	Trane	YCD102C4HCAB	(RTU-A2)	\$ 8,236.00	EIGHT THOUSAND TWO HUNDRED THIRTY SIX	CARRIER	48HCED09B2M6-082CO	28,122.00
25	Trane	YCD102C4HCAB	(RTU-A3)	\$ 8,236.00	EIGHT THOUSAND TWO HUNDRED THIRTY SIX	CARRIER	48HCED09B2M6-082CO	28,122.00
26	Trane	YCD036C4HCBE	(RTU-A4)	\$ 5,483.00	FIVE THOUSAND FOUR HUNDRED EIGHTY THREE	CARRIER	48HCEA04A2M6-082CO	15,324.00
27	Trane	YCD102C4HCAB	(RTU-A5)	\$ 8,236.00	EIGHT THOUSAND TWO HUNDRED THIRTY SIX	CARRIER	48HCED09B2M6-082CO	28,122.00
28	Trane	YCD102C4HCAB	(RTU-E5)	\$ 8,236.00	EIGHT THOUSAND TWO HUNDRED THIRTY SIX	CARRIER	48HCED09B2M6-082CO	28,122.00
29	Trane	YCD036C4HCBE	(RTU-E6)	\$ 5,483.00	FIVE THOUSAND FOUR HUNDRED EIGHTY THREE	CARRIER	48HCEA04A2M6-082CO	15,324.00
30	Trane	YCD102C4HCAB	(RTU-D5)	\$ 8,236.00	EIGHT THOUSAND TWO HUNDRED THIRTY SIX	CARRIER	48HCED09B2M6-082CO	28,122.00
31	Trane	YCD036C4HCAB	(RTU-D4)	\$ 5,483.00	FIVE THOUSAND FOUR HUNDRED EIGHTY THREE	CARRIER	48HCEA04A2M6-082CO	15,324.00
32	Trane	YCD102C4HCAB	(RTU-D2)	\$ 8,236.00	EIGHT THOUSAND TWO HUNDRED THIRTY SIX	CARRIER	48HCED09B2M6-082CO	28,122.00
33	Condensor Unit			\$ 25,693.00	TWENTY FIVE THOUSAND SIX HUNDRED NINETY THREE	Cold Zone	ET-1	41,109.00

Subtotal \$ 286,624.00 TWO HUNDRED EIGHTY SIX THOUSAND SIX HUNDRED TWENTY FOUR

JOURNEYMAN Rate: \$62.27 x hours: 1,186 = \$73,852.22

APPRENTICE Rate: \$51.64 x hours: 1,182 = \$61,038.48

Equipment Rental CRANE SERVICES \$11,000.00

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QUOTE SHEET

Disposal of existing units	\$0.00	
Other overhead	✓	FUEL, PERMITS, COPIES AND P&P BOND ✓ \$8,515.00
GRT	\$9,273.74	NINE THOUSAND TWO HUNDRED SEVENTY THREE AND 74/100 Labor only
TOTAL	\$450,303.44	FOUR HUNDRED FIFTY THOUSAND THREE HUNDRED THREE AND 44/100

Please identify all costs

Contractor's Name: AIR MANAGEMENT SERVICES, INC.

Contractor's Phone: 505.856.9250 (CELL) 505.252.0329

Signature Of Authorized Contractor's Agent:

Title: Estimating Manager

A. N. Odom

Andrew Odom

Date: 09.20.2013

Email: aodom@airmanagementservices.com

2 2



**SANTA FE COUNTY
PRICE AGREEMENT
MISCELLANEOUS HEATING, VENTILATION, REFRIGERATION, AND AIR
CONDITIONING SERVICES**

THIS AGREEMENT is made and entered into by and between Santa Fe County, New Mexico, a political subdivision of the State of New Mexico, (hereinafter referred to as the "County") and Air Management Services, Inc. whose address is 4516 Anaheim NE, Albuquerque, New Mexico 87113, authorized to do business in the State of New Mexico (hereinafter referred to as "the Contractor").

IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

1. DEFINITIONS

- A. "County" shall mean the County of Santa Fe, New Mexico.
- B. "Using Department or Department" shall mean a Department, Commission or Board of Santa Fe County.
- C. "Purchase Order" shall mean a fully executed Purchase Order issued by the County Purchasing Department that specifies the items and services to be provided by the Contractor.
- D. "Price Agreement" means this indefinite quantity Price Agreement which requires the Contractor to provide Heating, Ventilation, Refrigeration, and Air Conditioning Services to the Using Department when issued a Purchase Order.
- E. "Price" means the fixed prices paid by the County and its departments for the Heating, Ventilation, Refrigeration, and Air Conditioning Services described on Attachment A.

2. GOODS TO BE PROVIDED

- A. **Purchase.** Attachments A of this Price Agreement are the prices for the Contractor's tangible goods and services. Attachment A also indicates any specifications required for the tangible goods and services that are subject of this Price Agreement.
- B. **Items Listed on Attachment A.** The County may issue Purchase Orders for the purchase of the items listed on Attachment A. Any item ordered by the County must be a service described on Attachment A. All orders issued hereunder must bear both an order number and the number of this Price Agreement 2013-0186-D-PW/MS.
- C. **Quantities.** It is understood that this is an indefinite quantity Price Agreement and the County may purchase any quantity of the item(s) or services listed on Attachment A on an as-needed basis. No guarantee or warranty is made or implied that any order for any definite quantity of item(s) or services be issued under this Price Agreement. The Contractor is required to accept the Purchase Order and furnish the item(s) and service.

D. Specifications. The items furnished under this Price Agreement shall meet or exceed the specifications provided in this IFB# 2013-0186-PW/MS including all Addenda. Orders issued pursuant to this Agreement must show the applicable Price Agreement items(s).

E. Delivery and Billing Instructions.

1. The Contractor shall deliver the items and services in accordance with the County's instructions. The Contractor shall also deliver, with the services ordered, an invoice listing the order number and the Price Agreement number.
2. Whenever the Using Department does not accept any deliverable and returns it to the Contractor, all related documentation furnished by the Contractor shall also be returned.
3. A Using Department will inform the Contractor within five (5) business days that a deliverable is unacceptable by the Using Department.

F. Price. Prices listed in Attachment A for each item shall be the fixed prices and rates for the items and services.

3. PAYMENT

All payments under this Price Agreement are subject to the following provisions.

- A. Inspection.** Final inspection and acceptance of all items and services ordered shall be made at the destination. Items rejected at the destination for non-conformance with specifications shall be removed, at the Contractor's risk and expense, promptly after notice of rejection.
- B. Acceptance.** In accordance with NMSA 1978, Section 13-1-158, the Using Department shall determine if the items meet specifications, and may accept the items if the items meet specifications. No payment shall be made for any items until the items have been accepted in writing by the Using Department. Unless otherwise agreed upon between the Using Department and the Contractor, within thirty (30) days from the receipt of items, the Using Department shall issue a written certification of complete or partial acceptance or rejection of the items. The time period shall begin at the time of receipt of the final shipment when there are multiple shipments per purchase order. Unless the Using Department gives notice of rejection within the specified time period, the items will be deemed to have been accepted.
- C. Issuance of Orders.** Only written, signed and properly executed Purchase Orders are valid under this Price Agreement.
- D. Invoices.** The Contractor may submit invoices for payment no more frequently than monthly. The Contractor's invoice shall be submitted in triplicate, duly certified and shall contain the following information: order number, description of item(s), quantities, unit prices, extended totals, delivery tickets and applicable taxes. Separate invoices shall be rendered for each and every complete shipment. Invoices must be submitted to the Using Department and not the Purchasing Division.
- E. Payment of Invoices.** Upon written certification from the Using Department that the items have been received and accepted, payment shall be tendered to the

Contractor within thirty (30) days. If the payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. After the thirtieth day from the date that written certification of acceptance is issued, late payment charges shall be paid on any unpaid balance due, for the items and services delivered, on the Price Agreement to the Contractor at the rate of 1.5 % per month. Payment shall be made to the Contractor's designated mailing address.

- F. **Tax Note.** Applicable gross receipts taxes or local option tax(es) shall be included on each invoice and shown as a separate item to be paid. The payment of taxes for any money received under this Price Agreement shall be the Contractor's sole responsibility and must be reported under the Contractor's federal and County tax identification number(s). If a Using Department is exempt from the New Mexico gross receipts tax or local option taxes for the transaction, the Using Department shall provide the Contractor with written evidence of such exemption(s).

4. TERM

This Price Agreement shall not become effective until approved in writing by all the parties as shown by their signatures below. The term of this Agreement shall be four (4) years on the same prices and rates as indicated on Attachment A and so stated in this Price Agreement.

5. CANCELLATION

- A. The County reserves the right to cancel without cost to the County all or any part of any order placed under this Price Agreement if the items or deliverables fail to meet the requirements of this Price Agreement.
- B. The failure of the Contractor to perform its obligations under this Price Agreement shall constitute a default of this Price Agreement.
- C. The Contractor may be excused from performance if the Contractor's failure to perform the order arises out of causes beyond the control and without the fault or negligence of the Contractor, unless the County shall determine that the item, to be furnished by a sub-contractor, is obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.
- D. Such causes of excuse include, but are not limited to, acts of God or the public enemy, acts of the County or Federal government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of sub-contractors due to any of the above.
- E. The County may cancel all, or any part, of any order without cost to the County if the Contractor fails to meet material provisions of the order and the Contractor shall be liable for any excess costs incurred by the County that is associated with such default.

6. TERMINATION

- A. **For Convenience.** Consistent with applicable New Mexico laws, this Price Agreement may be terminated by the County, without penalty, at any time prior to the expiration date of this Price Agreement. County will provide at least twenty (20) days prior written notice to the Contractor of the date of termination. Notice of Termination of this Price Agreement shall not affect any outstanding order(s) issued under this Price Agreement prior to the effective date of termination for convenience by the County.
- B. **For Cause.** Either party may terminate this Agreement for cause based upon material breach of this Agreement by the other party, provided that the non-breaching party shall give the breaching party written notice specifying the breach and shall afford the breaching party a reasonable opportunity to correct the breach. If, within thirty (30) days, after receipt of a written notice, the breaching party has not corrected the breach or, in the case of a breach which cannot be corrected in thirty (30) days, begin and proceed in good faith to correct the breach, the non-breaching party may declare the breaching party in default and terminate the Agreement effective immediately. The non-breaching party shall retain any and all other remedies available to it under the law.

7. AMENDMENT

This Price Agreement may only be amended by mutual agreement of the County and the Contractor upon written notice by either party to the other. Any such amendment shall be in writing and signed by the parties hereto. Unless otherwise agreed to by the parties, an amendment shall not affect any outstanding Purchase Order(s) issued, by the County, prior to the effective date of the amendment.

8. ASSIGNMENT

Contractor shall not sell, assign, pledge, transfer, or otherwise convey any of its rights or interests in this Price Agreement.

9. NON-COLLUSION

In signing this Price Agreement, the Contractor certifies it has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with its offer and this Price Agreement.

10. RECORDS

During the term of this Price Agreement and for three (3) years thereafter, the Contractor shall maintain detailed records pertaining to the services or deliverables provided. These records shall be subject to inspection by the Using Department, the County and State Auditor and other appropriate County authorities. The County shall have the right to

audit billings both before and after payment. Payment under this Price Agreement shall not foreclose the right of the Department to recover excessive or illegal payments.

11. APPROPRIATIONS

The terms of this Price Agreement, and any orders placed under it, are contingent upon sufficient appropriations and authorization being made by the Board of County Commissioners for the performance of this Price Agreement. If sufficient appropriations and authorization are not made, this Price Agreement, and any orders placed under it, shall terminate upon written notice being given to the Contractor. The County's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

12. CONFLICT OF INTEREST

The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with any performance required under this Price Agreement. The Contractor shall comply with any applicable provisions of the New Mexico Governmental Conduct Act and the New Mexico Financial Disclosures Act.

13. APPROVAL OF CONTRACTOR'S REPRESENTATIVES

The County reserves the right to require a change in Contractor representatives if the assigned representatives are not, in the opinion of the County, serving the needs of the County adequately.

14. SCOPE OF AGREEMENT, MERGER

This Price Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof and all such covenants, agreements and understandings have been merged into this Price Agreement. No prior agreement or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Price Agreement.

15. NOTICE

The New Mexico Procurement Code, NMSA 1978, Sections 13-1-28 through 13-1-199 imposes civil misdemeanor criminal penalties for its violation. In addition, the New Mexico criminal statutes impose penalties for bribes, gratuities and kickbacks.

16. INDEMNIFICATION

The Contractor shall hold the County and its Departments, agencies and employees harmless and shall indemnify the County and its agencies and employees against any and all claims, suits, actions, liabilities and cost of any kind, including attorney's fees for

personal injury or damage to property arising from the acts or omissions of the Contractor, its agents, officers, employees, or sub-contractors. The Contractor shall not be liable for any injury or damage as a result of any negligent act or omission committed by the Department, its officers or employees.

17. THIRD PARTY BENEFICIARY

This Price Agreement was not intended to and does not create any rights in any persons not a party hereto.

18. NEW MEXICO TORT CLAIMS ACT.

No provision of this Price Agreement modifies or waives any sovereign immunity or limitation of liability enjoyed by the County and its Departments or its "public employees" at common law or under the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq.

19. INSURANCE.

- A. General Conditions. The Contractor shall submit evidence of insurance as is required herein. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico.
- B. General Liability Insurance, Including Automobile. The Contractor shall procure and maintain during the life of this Price Agreement a comprehensive general liability and automobile insurance policy with liability limits in amounts not less than \$1,050,000 combined single limits of liability for bodily injury, including death, and property damage for any one occurrence. Said policies of insurance shall include coverage for all operations performed for the County by the Contractor; coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment, both on and off work; and contractual liability coverage under which this Price Agreement is an insured contract. Santa Fe County shall be named an additional insured on the policy.
- C. Worker's Compensation Insurance. The Contractor shall comply with the provisions of the Worker's Compensation Act.
- D. Increased Limits. If, during the life of this Price Agreement, the Legislature of the State of New Mexico increases the maximum limits of liability under the Tort Claims Act (NMSA 1978, Sections 41-4-1 through 41-4-29, as amended), the Contractor shall increase the maximum limits of any insurance required herein.

20. APPLICABLE LAW

This Price Agreement shall be governed by the laws of the State of New Mexico.

21. CHOICE OF LAW

This Price Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico. The parties agree that the exclusive forum for any litigation between them arising out of or related to this Price Agreement shall be in the First Judicial District Court of New Mexico, located in Santa Fe County, New Mexico.

22. INVALID TERM OR CONDITION/SEVERABILITY

The provisions of this Price Agreement are severable, and if for any reason, a clause, sentence or paragraph of this Price Agreement is determined to be invalid by a court or department or commission having jurisdiction over the subject matter hereof, such invalidity shall not affect other provisions of the Price Agreement, which can be given effect without the invalid provision.

23. ENFORCEMENT OF AGREEMENT

A party's failure to require strict performance of any provision of this Price Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by party or any of its rights under this Price Agreement shall be effective unless expressed and in writing, and not effective waiver by a party of any of its right shall be effective to waive any other rights.

24. SURVIVAL

The Provisions of the following listed paragraphs shall survive termination of this Price Agreement: Delivery & Billing Instructions; Records; Indemnification; Applicable Law; and Survival.

25. NOTICES

Either party may give written notice to the other party in accordance with the terms of this Price Agreement. Any written notice required or permitted to be given hereunder shall be deemed to have been given on the date of delivery if delivered by personal service or hand delivery or three (3) business days after being mailed.

To the County:

Santa Fe County
102 Grant Avenue
PO Box 276
Santa Fe, NM 87504-0276

To the Contractor:

Air Management Services, Inc.
4516 Anaheim NE
Albuquerque, NM 87113

IN WITNESS WHEREOF, the parties have executed this Price Agreement as of the date of execution by:

SANTA FE COUNTY

Kathy Hollan
Kathy Hollan, Chair
Board of County Commissioners

3/26/2013
Date

ATTEST:

Geraldine Salazar
Geraldine Salazar
Santa Fe County Clerk

4/1/2013
Date


APPROVED AS TO FORM

Stephen C. Ross
Stephen C. Ross
Santa Fe County Attorney

March 25, 2013
Date

FINANCE DEPARTMENT APPROVAL

Teresa C. Martinez
Teresa C. Martinez, Director
Finance Department

3/25/2013
Date

CONTRACTOR

Andrew D. Odom
Signature

March 25 2013
Date

Andrew D. Odom / ESTIMATOR
Print Name and Title

FEDERAL TAX I.D. NUMBER: 850361225

BID SHEET CONTINUED**1. Journeyman, regular work hours (per hour)**

Projects under \$60,000	<u>\$62.27</u>
Projects over \$60,000	<u>\$62.27</u>

2. Journeyman, work hours, after 5:00 PM – 8:00 AM

Projects under \$60,000	<u>\$93.41</u>
Projects over \$60,000	<u>\$93.41</u>

3. Journeyman, weekend work hours

Projects under \$60,000	<u>\$93.41</u>
Projects over \$60,000	<u>\$93.41</u>

4. Journeyman, holiday work hours

Projects under \$60,000	<u>\$155.68</u>
Projects over \$60,000	<u>\$155.68</u>

5. Apprentice, regular work hours (per hour)

Projects under \$60,000	<u>\$51.64</u>
Projects over \$60,000	<u>\$51.64</u>

6. Apprentice, work hours, after 5:00 PM – 8:00 AM

Projects under \$60,000	<u>\$77.46</u>
Projects over \$60,000	<u>\$77.46</u>

7. Apprentice, weekend work hours

Projects under \$60,000	<u>\$77.46</u>
Projects over \$60,000	<u>\$77.46</u>

8. Apprentice, holiday work hours

Projects under \$60,000	<u>\$129.11</u>
Projects over \$60,000	<u>\$129.11</u>

9. Laborer, regular work hours (per hour)

Projects under \$60,000	<u>\$31.59</u>
Projects over \$60,000	<u>\$31.59</u>

10. Laborer, work hours, after 5:00 PM – 8:00 AM

Projects under \$60,000	<u>\$47.38</u>
Projects over \$60,000	<u>\$47.38</u>

11. Laborer, weekend work hours

Projects under \$60,000	<u>\$47.38</u>
Projects over \$60,000	<u>\$47.38</u>

12. Laborer, holiday work hours

Projects under \$60,000	<u>\$78.97</u>
Projects over \$60,000	<u>\$78.97</u>

13. Diagnosis, project estimates, troubleshooting, regular work hours

Hourly Rate: \$62.27

14. Diagnosis, project estimates, troubleshooting work hours after 5:00 PM-8:00 AM

Hourly Rate: \$93.41

15. Diagnosis, project estimates, troubleshooting, weekend work hours

Hourly Rate: \$93.41

16. Diagnosis, project estimates, troubleshooting, holiday work hours

Hourly Rate: \$155.68

17. Discount given on all RETAIL parts and materials 10%

Major Manufacturer	Discount
CARRIER	10%
TRANE	10%
LIEBERT	10%

Use additional sheet for more manufacturers

18. One way per mile costs, per services

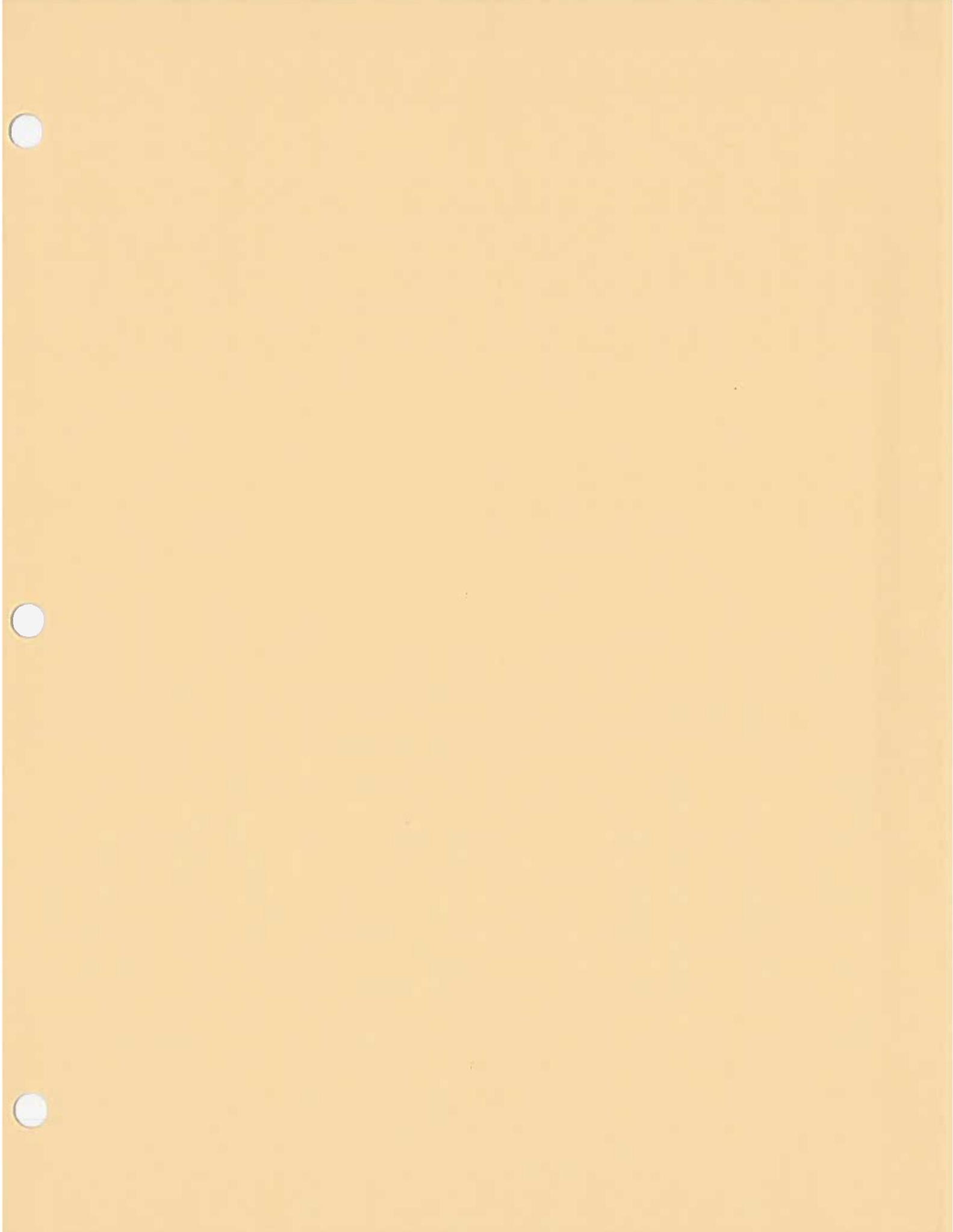
Vehicle required, measured from Contractor's office/job to the requested job site, for travel in excess of 50 miles one-way (based on mapquest.com)

Mileage Rate \$2.33



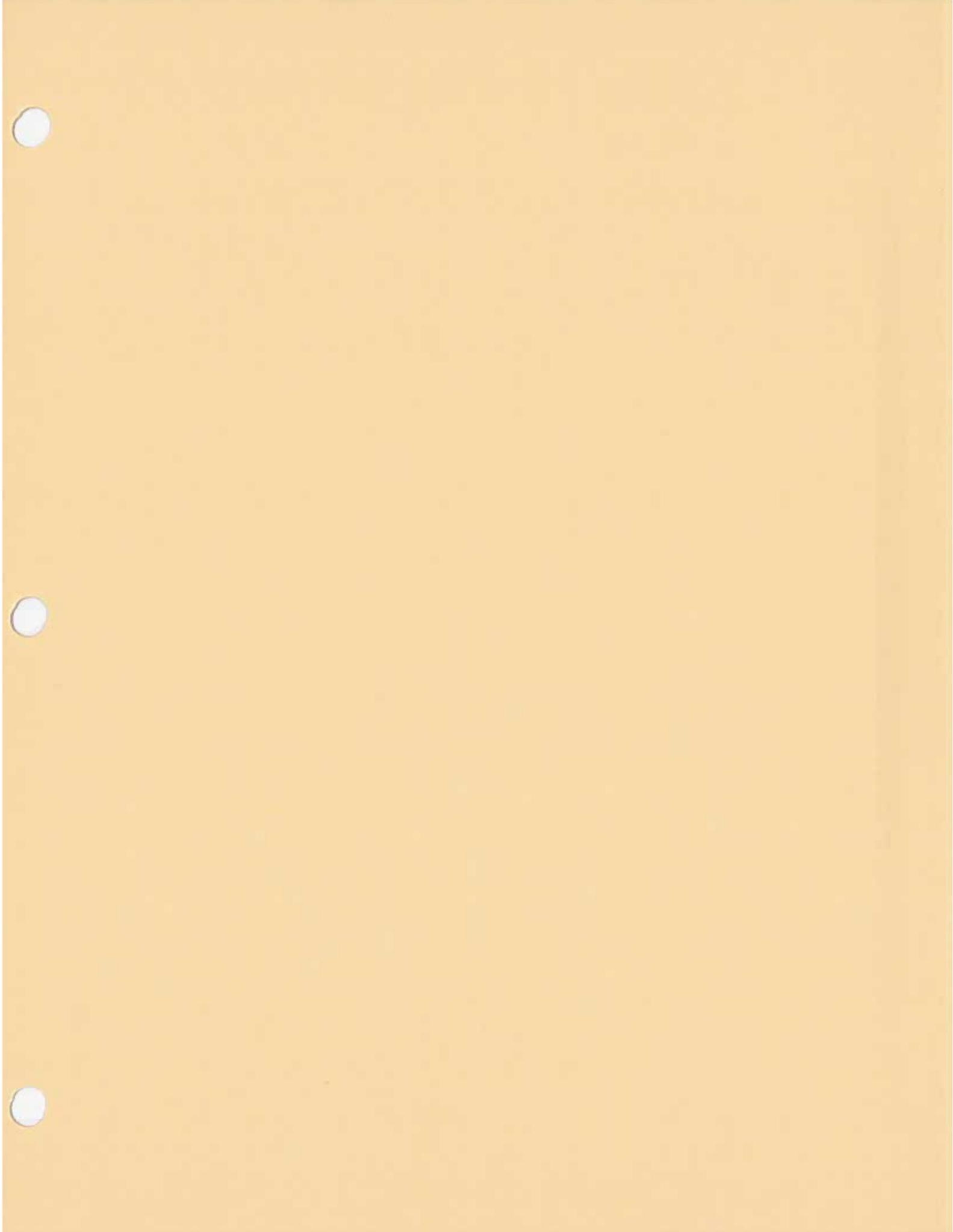
IFB #2013-0186-PW/MS





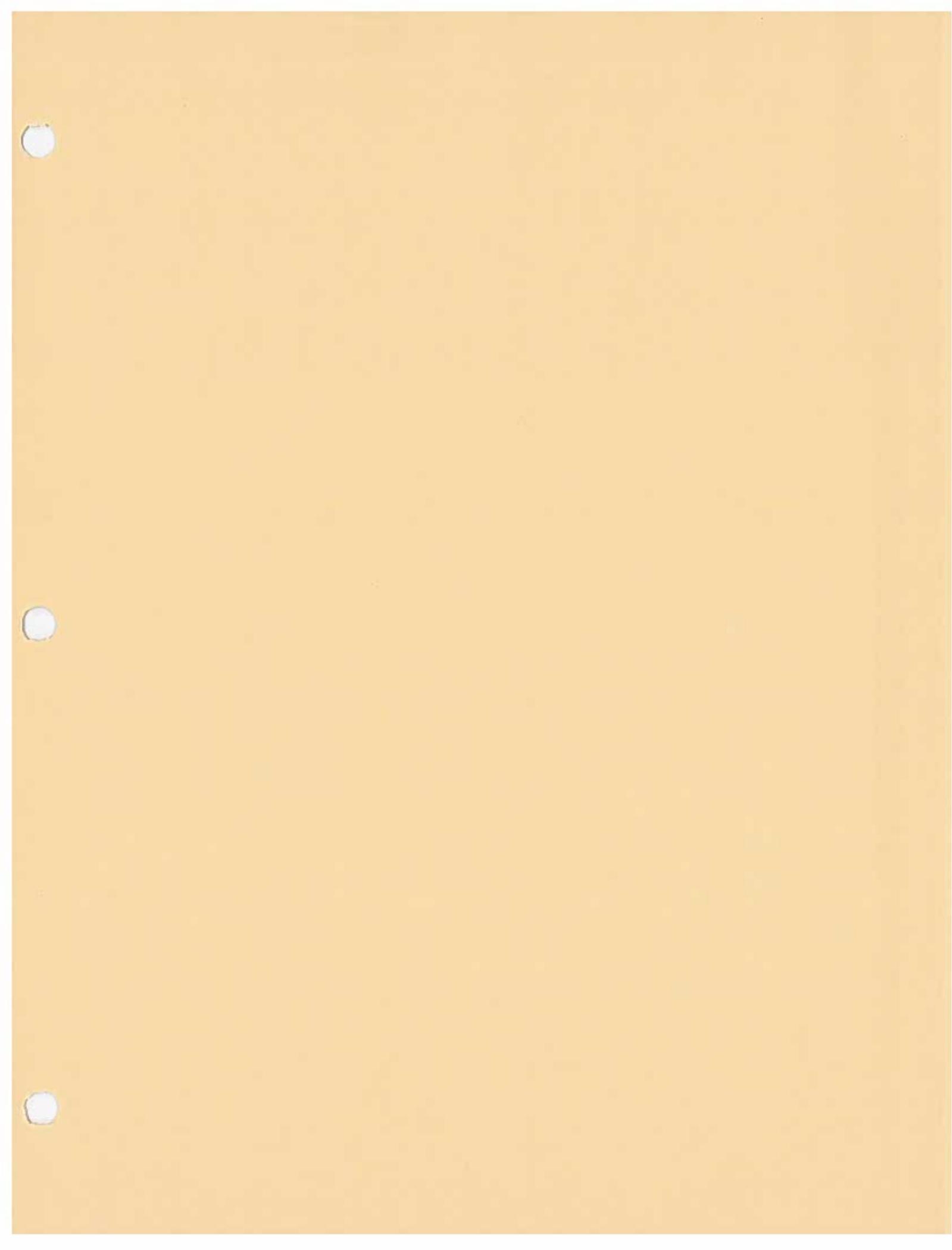
NO PACKET MATERIAL FOR THIS ITEM

XVI. A. MISCELLANEOUS UPDATES



NO PACKET MATERIAL FOR THIS ITEM

A. EXECUTIVE SESSION



Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: October 8, 2013

TO: Board of County Commissioners

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

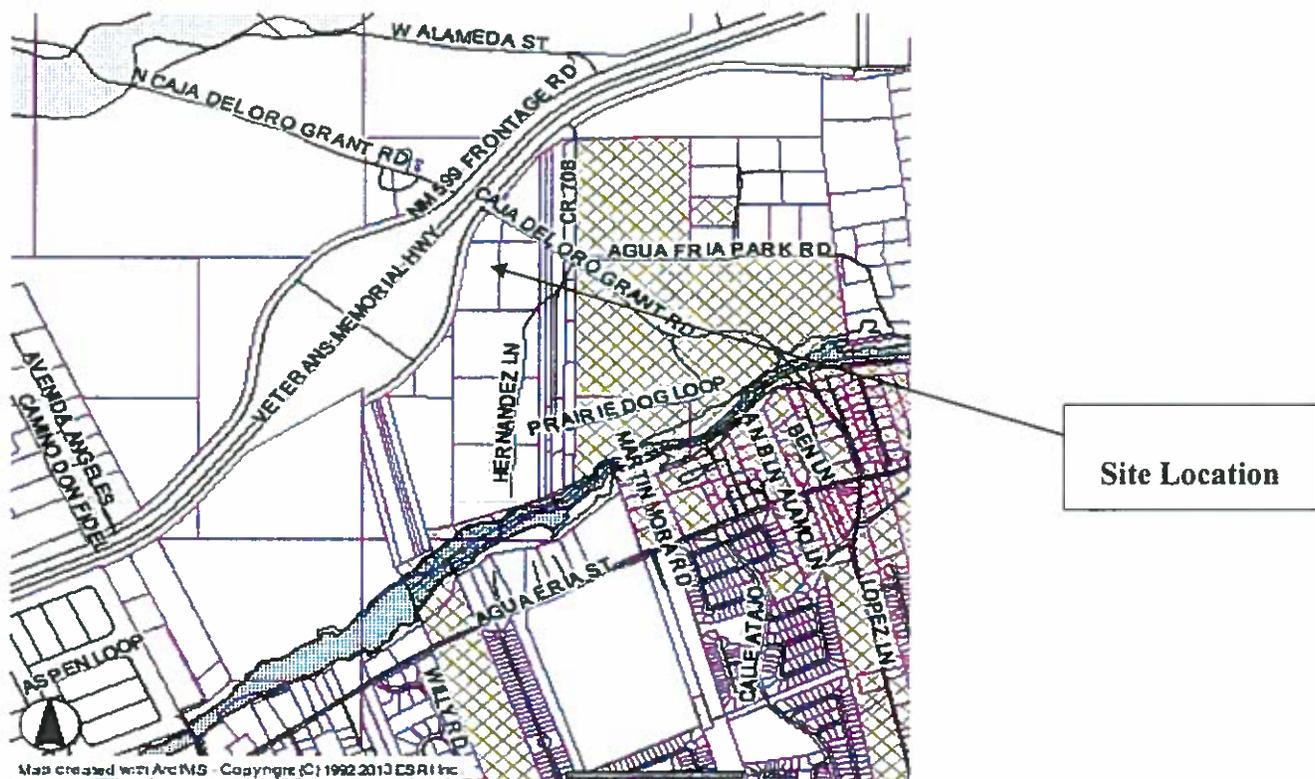
VIA: Penny Ellis-Green, Land Use Administrator *PEG*
Vicki Lucero, Building and Development Services Manager *VL*
Wayne Dalton, Building and Development Services Supervisor

FILE REF.: BCC CASE # MIS 13-5280 Andrew B. Scott D/B/A Andy's Place

ISSUE:

Andrew B. Scott, Applicant, D/B/A Andy's Place, Requests Approval For A Transfer Of Ownership And Location Of Liquor License No. 2795. The Property Is Located At The Southeast Intersection of Alameda St. & Caja Del Oro Grant Road, In The Area Of South Meadows Road, Within Section 31, Township 17 North, Range 9 East (Commission District 2).

Vicinity Map:



SUMMARY:

The Applicant requests approval for the transfer of ownership and location of Liquor License No. 2795 from 242 Los Pinos Road to the property located at the southeast intersection of Alameda Street and Caja del Oro Grant Road. The Liquor License is currently owned by MLH Enterprises, LLC D/B/A Sunrise Springs Inn & Retreat. The Applicant intends to open a restaurant with a full service bar at this site.

This site is within the presumptive City Limits within Phase II of the annexation area. A zoning statement was issued by the City of Santa Fe which states that this site is zoned as a General Commercial District (C-2) where restaurants with full service bars are allowed. The City has zoning authority within the presumptive City limits. The County has to conduct the public hearing on a liquor license located outside of the limits of a municipality.

The State Alcohol and Gaming Division granted preliminary approval of this request in accordance with Section 60-6B-4 NMSA 1978 of the Liquor Control Act. Legal notice of this request has been published in the newspaper. The Board of County Commissioners is required to conduct a public hearing on the request to grant the transfer of ownership and location of Liquor License No. 2795.

This Application was submitted on September 3, 2013.

Growth Management staff has reviewed this project for compliance with pertinent Code requirements and finds the following facts to support this submittal: the site is within the Presumptive City Limits within Phase II of the annexation area; the City has zoning authority within the Presumptive City Limits; the City issued a zoning statement allowing restaurant liquor sales on this site; the County has to conduct the public hearing on a liquor license located outside of the limits of a municipality; the Applicant has met the State of New Mexico requirements for noticing, distance from schools and churches.

APPROVAL SOUGHT: Approval of a transfer of location and ownership of Liquor License No. 2795.

GROWTH MANAGEMENT AREA: El Centro, SDA-2, Phase II of the annexation area.

AGENCY REVIEW:

<u>Agency</u>	<u>Recommendation</u>
NM Alcohol & Gaming	Preliminary Approval
Distance from nearest Church-	2,000 feet
Distance from nearest School-	4,000 feet

STAFF RECOMMENDATION: Approval of the transfer of location and ownership of Liquor License No. 2795 from MLH Enterprises DBA Sunrise Springs Inn & Retreat located at 242 Los Pinos Road to Andrew B. Scott DBA Andy's Place located at the southeast intersection of Alameda Street & Caja Del Oro Road.

EXHIBITS:

- 1- Letter of Intent
- 2- Zoning Statement
- 3- Vicinity Map
- 4- Aerial of Site
- 5- Plat
- 6- Alcohol and Gaming Division Letter of Preliminary Approval
- 7- Letters of Opposition

LINDA L. AIKIN
LAWYER
530B HARKLE ROAD
SANTA FE, NEW MEXICO 87505
(505) 982-6224
FAX: (505) 992-8378
E-Mail lla@cybermesa.com

September 25, 2013

Mr. John Salazar
Santa Fe County
102 Grant
Santa Fe, New Mexico 87501

Re: Liquor License Application; Andrew Scott

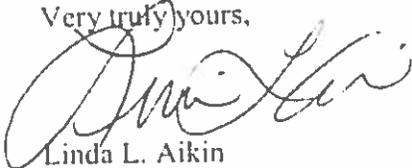
Dear Mr. Salazar:

I represent Andrew Scott. Mr. Scott has applied for the transfer of ownership and location of Liquor License No. 2795 (the "License"). The License is being transferred from Sunrise Springs (242 Los Pinos Road) to Tract 4 of Don Juan's Land, located south and east of the intersection of Alameda Street and Caja del Oro Grant Road, Santa Fe, New Mexico, which does not yet have an assigned address, but is shown on the vicinity map which is submitted with this application.

Mr. Scott will open a new business and therefore does not yet have an E.D. Permit, a business license, or a site plan. Mr. Scott intends to open a restaurant with the sale of alcoholic beverages by the drink.

Please call me if you have any questions.

Very truly yours,



Linda L. Aikin





June 25, 2013

Monica Montoya
Montoya Land Use Consulting, Inc.
726 Gregory Lane
Santa Fe, NM 87505

RE: Zoning Verification for Tract 4, Village Plaza

This is in response to a request for zoning verification on the above referenced property. According to the Official Zoning Map, Page K-14, this property is zoned C-2 (General Commercial).

14-4.3(G) C-2 General Commercial District

(1) Purpose and Intent

Districts in this category are intended to include areas along streets carrying large volumes of traffic where commercial uses already exist, have displaced or are displacing residential development or are moving in on vacant lands. Regulations are designed to guide future additions or changes so as to discourage formation of future commercial slums, to preserve the carrying capacity of the streets and to provide for off-street parking and loading. It is not the intent of this article to encourage the extension of existing strip commercial areas, nor is it intended for this district to be used as a means for creating new strip commercial developments.

For additional information, reference City of Santa Fe Chapter 14 SFCC regarding these districts (Chapter 14-4 – Zoning Districts/14-6 Permitted Uses).

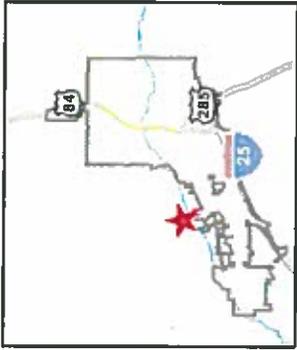
Note: The information provided in this letter is solely derived from the Official Zoning Map and the minimum requirements set forth in Chapter 14, SFCC 1987. It is the intent of this letter to advise of the ordinances pertaining to the zone districts. It is not the intent to state that the subject property complies with zoning requirements. Occupancy is determined based on zoning compliance at the time of building permit or certificate of occupancy, whichever applies. Additionally, it is not the intent to interfere with or to abrogate or annul any official document including conditions or safeguards made a part of the subject property at the time of any public hearings. Applicants are advised to pursue an independent search of official documents.

If you have any questions, please call me at 505-955-6325.

Donna Wynant, AICP
Senior Planner



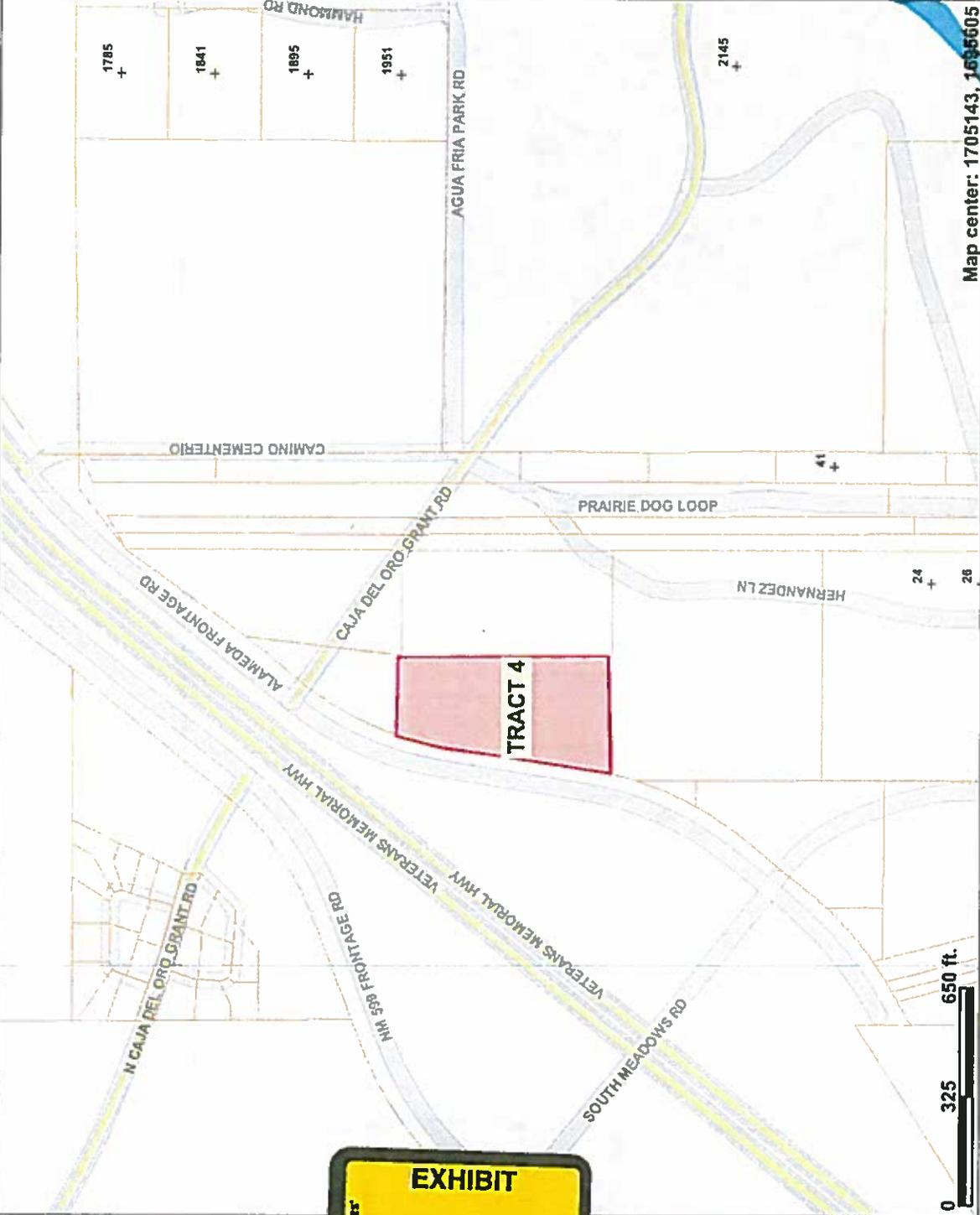
TRACT 4/DON JUANS SUBDIVISION



Legend

- City Limits
- Address Points
- Parcels
- Santa Fe River
- Major Roads and Highways
- Other Roads and Streets

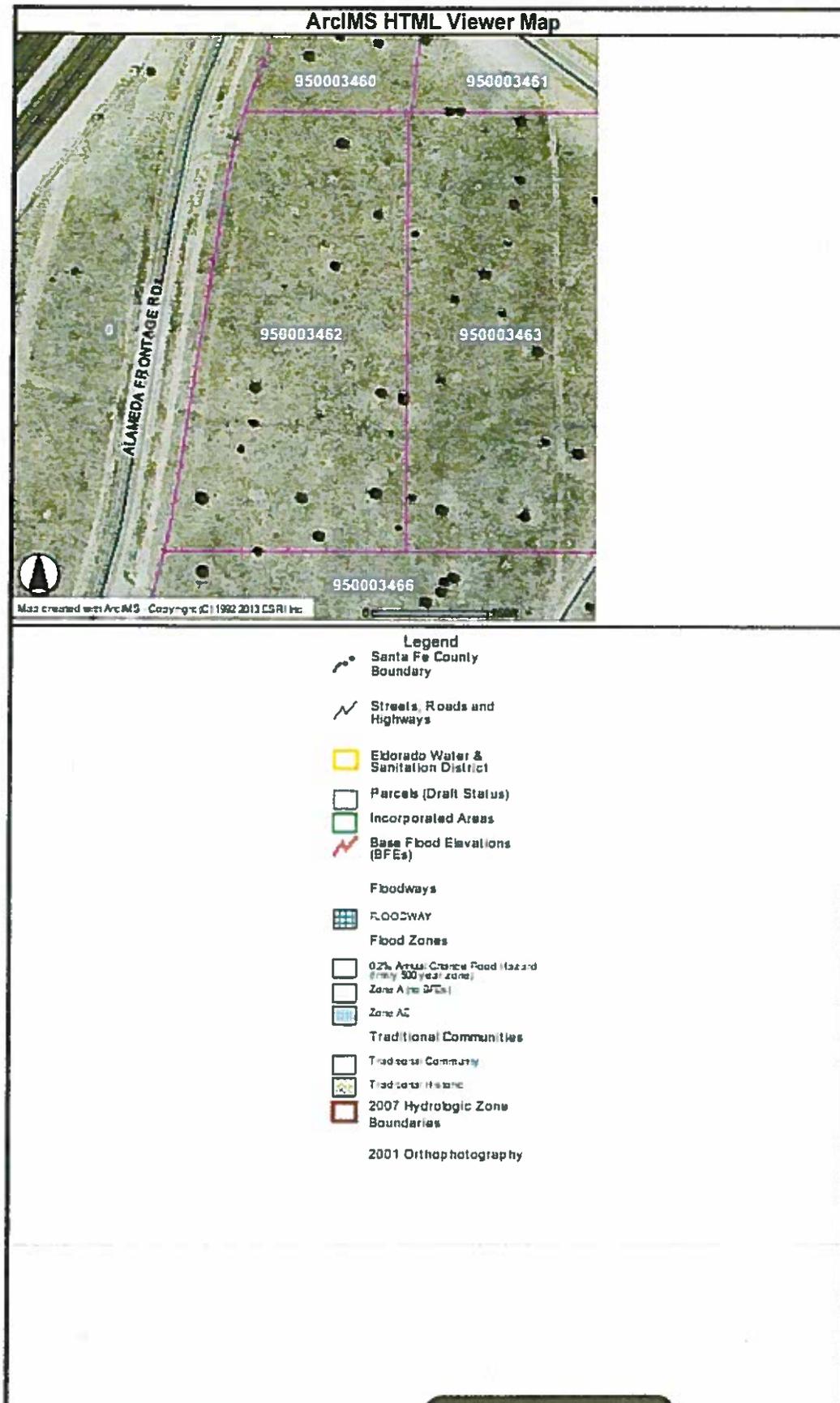
Scale: 1:5,547



Map center: 1705143, 1695605



This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

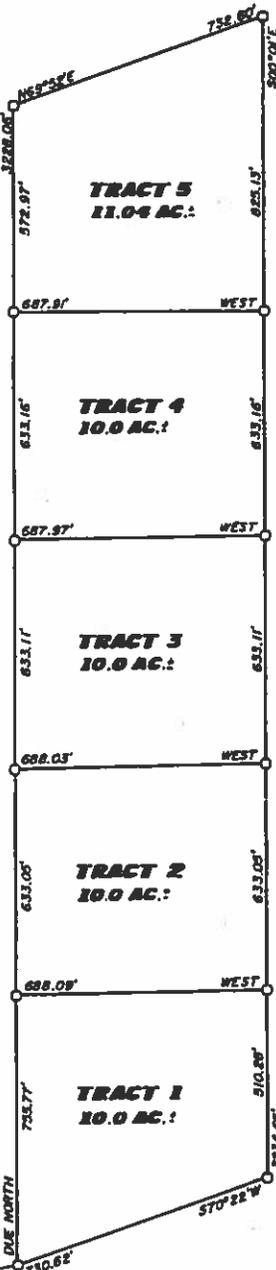
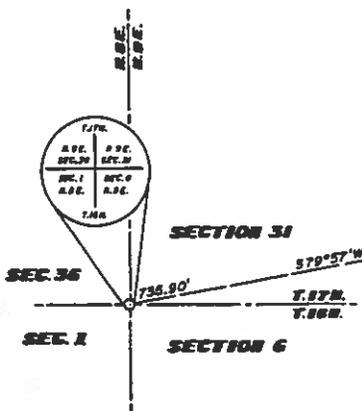


EXHIBIT

4



SCALE 1"=300'



NOTE: ALL CALCULATIONS ON EXTERIOR BOUNDARIES, INTERIOR LOTS, AND BRASS CAP TIE ARE BASED ON A GOVERNMENT SURVEY CONTRACT No. 5874 TRACT 2 FOR MAURICIA B. DE GONZALES.

PLAT OF SURVEY FOR RICHARD MONTOYA
WITHIN SECTION 31, T.17N., R.9E., N.M.P.M., SANTA FE COUNTY, NEW MEXICO.



470-973
STATE OF NEW MEXICO
COUNTY OF SANTA FE
I hereby certify that this instrument was prepared on the 29 day of Dec 1980 at 12:25 and was duly recorded in page 22 of the records of Santa Fe County
CAROLINA R. GONZALES
County Clerk, Santa Fe County, N.M.
Deputy

CERTIFICATE

I HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, AND THAT THIS PLAT IS AN ACCURATE DELINEATION OF AN OFFICE SURVEY COMPLETED UNDER MY SUPERVISION IN DECEMBER, 1980, AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Robert L. Benavides
ROBERT L. BENAVIDES

N.M.L.S. No. 582

EXHIBIT
5

PREPARED BY:
PROFESSIONAL LAND SURVEYING
SANTA FE, NEW MEXICO. 8-43



New Mexico Regulation and Licensing Department
ALCOHOL AND GAMING DIVISION

Toney Anaya Building • 2550 Cerrillos Road • Santa Fe, New Mexico 87505
(505) 476-4875 • Fax (505) 476-4595 • www.rld.state.nm.us

September 4, 2013

Certified Mail No.: 70092250 0000 9393 2889

Susana Martinez
GOVERNOR

J. Dee Dennis, Jr.
SUPERINTENDENT

Mary Kay Root
DEPUTY
SUPERINTENDENT

James C. McKay
CHIEF GENERAL
COUNSEL

Jennifer M. Anderson
DIRECTOR

Jose E. Larrañaga
Commercial Development Case Manager
Building and Development Services
Santa Fe County
102 Grant Avenue
Santa Fe, NM, 87504

Re: License / Appl. No.: Lic. No. 2795 /Appl. #A-877626
Applicant Name: Andrew B. Scott
Doing Business As: Andy's Place
Proposed Location: South & East of Intersection of Alameda St.
& Caja Del Oro Grant Road
Santa Fe, NM 87507

ATTENTION: Department or person responsible for conducting or preparing the public hearing for liquor license transfers or issuance of new liquor licenses.

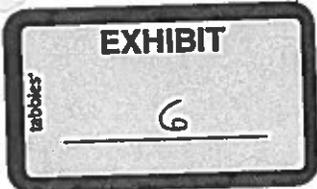
Greetings:

The Director of the Alcohol and Gaming Division has reviewed the referenced Application and granted Preliminary Approval; it is being forwarded to you in accordance with Section 60-6B-4 NMSA of the Liquor Control Act.

Within forty-five (45) days after receipt of a Notice from the Alcohol and Gaming Division, the governing body shall hold a Public Hearing in the question of whether the department should approve the proposed issuance or transfer. Notice of the Public Hearing required by the Liquor Control Act shall be given by the governing body by publishing a notice of the date, time, and place of the hearing at least once a week for two consecutive weeks in a newspaper of general circulation within the territorial limits of the governing body, which requires that two weeks of publication must be satisfied before a hearing can be conducted. The notice shall include: (A) Name and address of the Applicant/Licensee; (B) The action proposed to be taken by the Alcohol and Gaming Division; and (C) The location of the licensed premises. The governing body is required to send notice by certified mail to the Applicant of the date, time, and place of the Public Hearing. The governing body may designate a Hearing Officer to conduct the hearing. A record shall be made of the hearing.

THE APPLICANT IS SEEKING A TRANSFER OF OWNERSHIP OF LIQUOR LICENSE NO. 2795 WITH ON PREMISE CONSUMPTION ONLY.

- Alcohol and Gaming Division
(505) 476-4875
- Boards and Commissions Division
(505) 476-4600
- Construction Industries Division
(505) 476-4700
- Financial Institutions Division
(505) 476-4885
- Manufactured Housing Division
(505) 476-4770
- Securities Division
(505) 476-4580
- Administrative Services Division
(505) 476-4800



The governing body may disapprove the issuance or transfer of the license if:

- 1) The proposed location is within an area where the sale of alcoholic beverages is prohibited by the laws of New Mexico. (The governing body may disapprove if the proposed location is within 300 feet of a church or school unless the license has been located at this location prior to 1981 or unless the Applicant/Licensee has obtained a waiver from the Local Option District governing body for the proposed licensed premises).
- 2) The issuance or transfer would be in violation of a zoning or other ordinance of the governing body. The governing body may disapprove if the proposed location is not properly zoned. Because this office is in receipt of a Zoning Statement from the governing body, this is not a basis for disapproval. Attached is a copy of a Zoning Statement from the local governing body.
- 3) The issuance would be detrimental to the public health, safety, or morals of the residents of the Local Option District. Disapproval by the governing body on public health, safety, or morals must be based on and supported by substantial evidence pertaining to the specific prospective transferee or location and a copy of the record must be submitted to the Alcohol and Gaming Division.

Within thirty (30) days after the Public Hearing, the governing body shall notify the Alcohol and Gaming Division as to whether the local governing body has approved or disapproved the issuance or transfer of the license by signing the enclosed original Page 1 of the Application. The original Page 1 of the Application must be returned together with the notice of publication(s). **If the governing body fails to either approve or disapprove the issuance or transfer of the license within thirty days after the Public Hearing, the Director may give Final Approval to the issuance or transfer of the license.**

If the governing body disapproves the issuance or transfer of the license, it shall notify the Alcohol and Gaming Division within thirty (30) days setting forth the reasons for the disapproval. A copy of the Minutes of the Public Hearing shall be submitted to the Alcohol and Gaming Division with the notice of disapproval (Page 1 of the Application page noting disapproval).

Sincerely,

Rose L. Garcia
Hearing Officer
NM Regulation & Licensing Dept.
Alcohol & Gaming Division
Phone: 505-476-4552
Fax: 505-476-4595
Email: rosel.garcia@state.nm.us

Enclosures: Original Page 1 of Application
Copy of Page 2 of Application

Garcia, Rose L., RLD

From: Michael W. Wiese <mww@rt66.com>
Sent: Monday, July 29, 2013 7:52 PM
To: Garcia, Rose L., RLD
Subject: Objection to liquor license application A877626

Hello,

This correspondence is in reference to application number A877626 on West Alameda (Andrew Scott, applicant).

On behalf of the neighborhood association to the north of 599, we would like to formally object to this application for a liquor license in order to facilitate a public hearing on the proposed establishment. Many people in our community have expressed deep concern over this project and would like their voices to be heard.

Thanks you.

Sincerely,

Michael Wiese

President, The West Santa Fe Association

505 992-0319

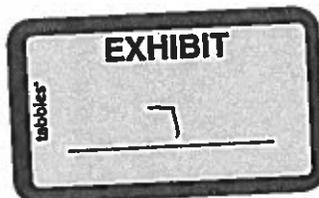


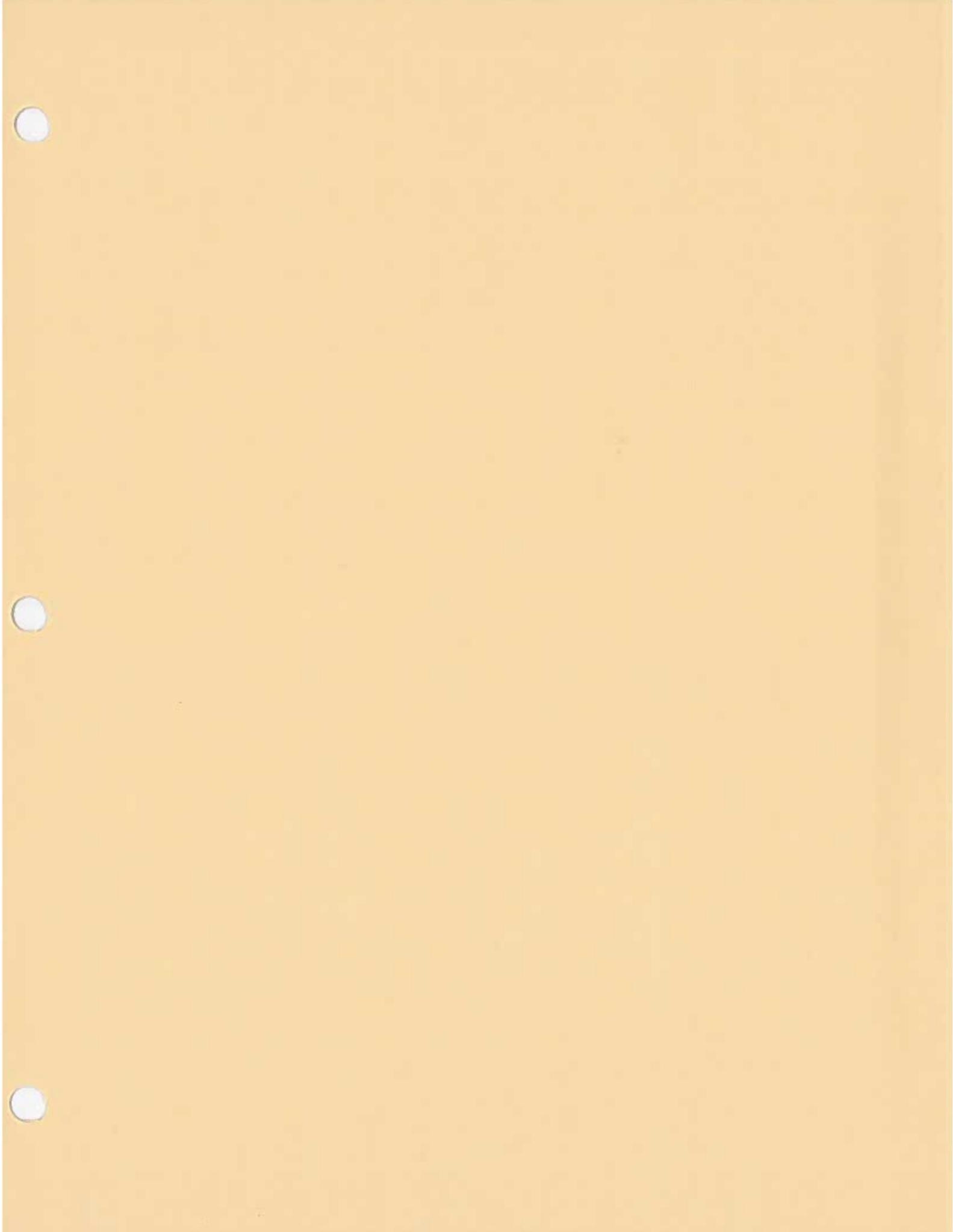
Garcia, Rose L., RLD

From: George Ancona <geoancona@gmail.com>
Sent: Tuesday, July 30, 2013 2:04 PM
To: Garcia, Rose L., RLD
Subject: objection to liquor license application

Dear Ms Garcia, we are members of the West Santa Fe Assoc. and a very much against any liquor license in our area. This is a family neighborhood with a new Agua Fria school nearby and we don't need anybody around here driving drunk in the day or nighttime.

Sincerely, Helga and George Ancona





Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: October 8, 2013

TO: Board of County Commissioners

FROM: John Lovato Development Review Specialist Senior

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

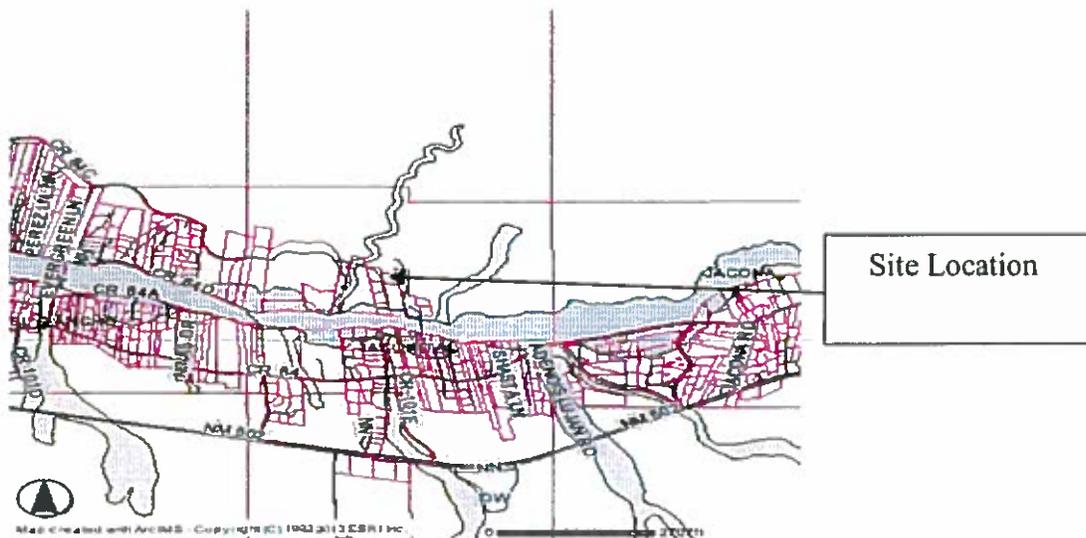
FILE REF.: CDRC CASE # V 13-5190 Minnie Walsh Variance

ISSUE:

Minnie Walsh, Applicant, requests a variance of Article III, Section 10 (Lot Size Requirements) and a variance of Article III, Section 2.4.1a.2.b (Access) of The Land Development Code and a variance of Article 4, Section 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management) to allow a Family Transfer Land Division of 1.195 acres into two lots.

The Property is located at 58 Arroyo Jaconita, within the Traditional Community of Jacona, within Section 11, Township 19 North, Range 8 East, (Commission District 1).

Vicinity Map:



REQUEST SUMMARY:

The Applicant requests a variance to allow a Family Transfer Land Division of 1.195 acres into two lots. The property is accessed by Arroyo Jaconita Road (Private Road) and Loma Encantada (Private Road). Arroyo Jaconita is a dirt/sand driving surface and is located in and crosses a FEMA designated Special Flood Hazard Area. The portion of Arroyo Jaconita Road that services the property is approximately 750 feet in length and 15 feet in width. Loma Encantada is a dirt driving surface that ends and enters the Jacona Land Grant. A portion of Loma Encantada crosses a FEMA designated Special Flood Hazard Area and is approximately 1/4 mile in length and 15 feet in width. Both Arroyo Jaconita, and Loma Encantada do not have all-weather driving surfaces and may be frequently impassible during and after inclement weather, and thereby are not all weather accessible.

Currently, there is a manufactured home, a single wide mobile home, and two accessory structures (Sheds) on the property. The property is served by two onsite wells, a conventional septic system, and a split flow septic system. Article III, Section 10 of the Land Code states that the minimum lot size in this area is 0.75 acres. In order to divide the subject property into two lots, the property would have to be at least 1.50 acres. The Applicant is requesting a variance to this requirement.

In 2006, the BCC granted a two year temporary approval to allow the placement of a second dwelling unit on the property. The Applicant never followed up with conditions of approval. The Applicant was to apply for temporary approval every two years to be approved by the CDRC and report water meter readings to the Land Use Administrator by January 31st of each year.

The Applicant states the reason for this is due to the loss of her husband, and it has taken a few years for the family to focus and take the necessary steps toward making a home for her daughter's family permanent. The Applicant would like to provide her daughter and her family with an affordable place to live and provide clear title to the land so that they may build a permanent residence. Furthermore, she would like to maintain family ties to the land where her daughter grew up.

Article III, § 2.4.1a.2.b (Access) of the Land Development Code states: "All development sites under this Section shall demonstrate that access for ingress and egress, utility service and fire protection whether by public access and utility easement or direct access to a public right-of-way can be provided and meet the requirements of this Code"

Article V, § 8.1.3 states "Legal access shall be provided to each lot and each lot must directly access a road constructed to meet the requirements of Section 8.2 of the Code. Parcels to be accessed via a driveway easement shall have a twenty (20) foot all weather driving surface, grade of not more than 11%, and drainage control as necessary to insure adequate access for emergency vehicles"

Article 4, § 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management) states: "At no time shall a permit be issued for a new dwelling unit, site, lot, parcel or tract of land intended for placement of a habitable structure where the site is absent all weather access"

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

This Application was submitted on June 6, 2013.

On July 18, 2013, the CDRC met and acted on this case. The decision of the CDRC was to recommend denial of the Applicants request by a 5-2 Vote. (Minutes attached as Exhibit 1)

Growth Management staff have reviewed this Application for compliance with pertinent Code requirements and finds the project is not in compliance with County criteria for this type of request.

APPROVAL SOUGHT: A variance of Article III, § 10 (Lot Size Requirements) of the Land Development Code to allow a Family Transfer Land Division of 1.195 acres into two lots, a variance of Article III, § 2.4.1a.2.b (Access) of the Land Development Code, and a variance of Article 4, § 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management)

GROWTH MANAGEMENT AREA: El Norte, SDA-2

HYDROLOGIC ZONE: Traditional Community of Jacona, minimum lot size per Code is 0.75 acres per dwelling unit. Proposal does not meet minimum lot size criterion.

ACCESS: Arroyo Jaconita and Loma Encantada

FIRE PROTECTION: Pojoaque Fire District

WATER SUPPLY: Domestic Well

LIQUID WASTE: Conventional Septic/System Split Flow System

VARIANCES: Yes

AGENCY REVIEW:	<u>Agency</u>	<u>Recommendation</u>
	County Fire	Denial
	Floodplain Administrator	Denial
	State EID	Approval

STAFF RECOMMENDATION: Denial of a variance of Article III, Section 10 (Lot Size Requirements), a variance of Article III, Section 2.4.1a.2.b (Access), and a variance of Article 4, Section 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management) to allow a Family Transfer Land Division of 1.195 acres into two lots.

If the decision of the BCC is to approve the Applicant's request, staff recommends imposition of the following conditions:

1. Water use shall be restricted to .50 acre foot per year per lot. A water meter shall be installed for each lot. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office (**Article III, § 10.2.2 and Ordinance 2002-13**).
2. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval (**Article III, § 2.4.2**).
3. The Applicant must comply with all conditions of approval within 90 days and prior to plat approval.
4. The Applicant shall comply with all Fire Prevention Division requirements at time of Plat review (**1997 Fire Code and 1997 Life Safety Code**).
5. The Placement of more than one dwelling unit per lot and further division of the land is prohibited on the property (**Article III, § 10**).
6. The Applicant shall divide the property into two equal parcels.
7. A note must be placed on the Plat regarding the lack of all-weather access to the subject lots. This note shall include language as follows: The access to this property does not meet minimum standards set forth by County Ordinance and Code. Site Access, including access by Emergency vehicles, may not be possible at all times (**Ordinance 2008-10**).

EXHIBITS:

1. August 15, 2013 CDRC Minutes
2. September 12, 2006 BCC Minutes
3. Letter of Intent
4. Letters of Opposition
5. Article III, § 10 Lot Size Requirements
6. Article III, § 2.4.1a.2.b (Access)
7. Article V, § 8.1.3 (Legal Access)
8. Article 4, § 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management)
9. Article II, § 3 (Variances)
10. Site Photographs
11. Aerial of Site and Surrounding Area
12. Review Agency Comment Letters

V. APPROVAL OF MINUTES: July 18, 2013

The Chair referred to a few spelling errors and Member Martin noted an omission. [The corrected minutes were filed.]

Member Martin moved to approve the July minutes as corrected. Member DeAnda seconded and the motion to approve the corrected minutes passed by unanimous [6-0] voice vote. [Member Anaya was not present for this action and arrived directly thereafter.]

VI. CONSENT AGENDA: Final Order

- A. CDRC Case #MIS 13-5180 John DePrimo Radio Antenna. John DePrimo, Applicant, Requested CDRC Approval to Allow a Radio Antenna 45' in height on 5 acres. The property is located at 136 Sunlit Drive West, within Section 9, Township 16 North, Range 10 East (Commission District 4). Approved 7-0.

Member DeAnda moved to approve the consent agenda as published. Her motion was seconded by Member Martin and passed by unanimous [7-0] voice vote.

VII. NEW BUSINESS

- A. CDRC CASE # V 13-5190 Minnie Walsh Variance. Minnie Walsh, Applicant, requests a variance of Article III, Section 10 (Lot Size Requirements) and a variance of Article III, Section 2.4.1a.2.b (Access) of The Land Development Code and a variance of Article IV, Section 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management) to allow a Family Transfer Land Division of 1.195 acres into two lots. The Property is located at 58 Arroyo Jaconita, within the Traditional Community of Jacona, within Section 11, Township 19 North, Range 8 East, (Commission District 1)

John Lovato, case manager, presented the staff report as follows:

“The Applicant requests a variance to allow a Family Transfer Land Division of 1.195 acres into two lots. The property is accessed by private roads Arroyo Jaconita Road and Loma Encantada. Arroyo Jaconita is a dirt/sand driving surface and is located in and crosses a FEMA designated Special Flood Hazard Area. The portion of Arroyo Jaconita Road that services the property is approximately 750 feet in length and 15 feet in width. Loma Encantada is a dirt driving surface that ends and enters the Jacona Land Grant. A portion of Loma Encantada crosses a FEMA designated Special Flood Hazard Area and is approximately 1/4 mile in length and 15 feet in width. Both Arroyo Jaconita, and Loma Encantada do not have all-weather driving surfaces and may be frequently impassible during and after inclement weather, and thereby are not all-weather accessible. Therefore, the Applicant is requesting a variance.



60.

“Currently, there is a manufactured home, a single-wide mobile home, and two accessory structures on the property. The property is served by two onsite wells, a conventional septic system, and a split flow septic system. Article III, Section 10 of the Land Code states that the minimum lot size in this area is 0.75 acres. In order to divide the subject property into two lots, the property would have to be at least 1.50 acres. The Applicant is requesting a variance to this requirement.

In 2006, the BCC granted a two-year temporary approval to allow the placement of a second dwelling unit on the property. The Applicant never followed up with conditions of approval. The Applicant was to apply for temporary approval every two years to be approved by the CDRC and report water meter readings to the Land Use Administrator by January 31st of each year.

“The Applicant states the reason for this is due to the loss of her husband, and it has taken a few years for the family to focus and take the necessary steps toward making a home for her daughter’s family permanent. The Applicant would like to provide her daughter and her family with an affordable place to live and provide clear title to the land so that they may build a permanent residence. Furthermore, she would like to maintain family ties to the land where her daughter grew up.”

Mr. Lovato stated that Growth Management staff have reviewed this Application for compliance with pertinent Code requirements and finds the project is not in compliance with County criteria for this type of request. Staff recommends denial of a variance of Article III, Section 10, Lot Size Requirements, a variance of Article III, Section 2.4.1a.2.b, Access, and a variance of Article IV, Section 4.2 of Ordinance No. 2008-10, Flood Damage and Stormwater Management, that would allow a Family Transfer Land Division.

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

1. Water use shall be restricted to .50 acre-foot per year per lot. A water meter shall be installed for each lot. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk’s Office (Article III, § 10.2.2 and Ordinance 2002-13).
2. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval (Article III, § 2.4.2).
3. The Applicant must comply with all conditions of approval within 90 days and prior to plat approval.
4. The Applicant shall comply with all Fire Prevention Division requirements at time of Plat review (1997 Fire Code and 1997 Life Safety Code).
5. The Placement of more than one dwelling unit per lot and further division of the land is prohibited on the property (Article III, § 10).
6. The Applicant shall divide the property into two equal parcels.

7. A note must be placed on the Plat regarding the lack of all-weather access to the subject lots. This note shall include language as follows: The access to this property does not meet minimum standards set forth by County Ordinance and Code. Site Access, including access by Emergency vehicles, may not be possible at all times (Ordinance 2008-10).

Mr. Lovato confirmed that the applicant obtained permission for the temporary placement of a second dwelling. He identified the temporary dwelling as a single-wide that had previously been the permanent dwelling on the property.

Member Katz asked about the allegation that the second well on the property was not noted within the application. Mr. Lovato said NMED inspected the property and for some reason the second well was not part of his report – either NMED failed to note it or the well was drilled after the inspection. He suggested the applicant may be able to answer that question.

Speaking as the County's Floodplain Administrator, Ms. Lucero stated that she recommended denial of the request since the site is absent all-weather access and crossing to the property and it may be frequently impassable. She said both accesses to the property cross 100-year floodplains.

Member Drobnis asked about the applicant's failure to renew the two-year permit. Ms. Lucero said the County approved several two-year temporary applications at the time this applicant received that approval. She said the code does not and did not address temporary approvals and it is no longer a procedure being followed. Granting renewal of the temporary dwellings varied on a case-by-case basis.

Member Drobnis expressed his concern that a two-year temporary permit issued in 2006 has continued for seven years without renewal and only now comes to the County's attention when a new application is submitted.

Responding to Member Anaya's question regarding access or ingress to property during bad/rainy weather, Fire Marshal Patty said there was a recent call where EMS could not cross an arroyo. He mentioned that one of the accesses across the Jacona Land Grant could be widened to improve it. He said fire and rescue will make every attempt to reach the property.

Mr. Lovato identified the advanced septic system as superior to the conventional system. A conventional system serves the main residence and the advanced system serves the second dwelling.

The applicant, Minnie Walsh, and her son in-law, Mike Adams were duly sworn.

Mike Adams said the advanced septic system is actually a split-flow system whereby no nitrates penetrate the groundwater. He said there were nine families that access the crossing. The rear access referred to as the big dip is only used when the river is flooding which occurs for an hour or two at a time.

Mr. Adams said he understood that there were compliance issues; however, their focus at this point is to receive a family transfer. The 2006 temporary permit addressed a financial family hardship and since moving on the property he and his wife have been able to prepare the area by installing the advanced septic system, utilities and drilling a well.

Mr. Adams recited the family transfer section of the Code and said the advanced septic system and their willingness to hook up to the regional water system when available makes their request qualify within the Code. The purpose of the Code, stated Mr. Adams, is the success of the community and granting this application will do that.

Mr. Adams said the single-wide would be replaced once the new home is built.

Ms. Lucero clarified the request was for variances to the lot size and all weather access to allow for the family transfer. If this application is not approved, the applicant will need to comply with the original conditions when the temporary permit was received.

Appreciating the difficulties of losing a family member, Member Katz pointed out to the applicant that he is here before the County asking for variances when in the past he did not carry through with the conditions of the temporary permit. Ms. Walsh responded that her husband had been sick for years before he died. She said it has only been very recently that she is able to straighten out her life and needs her children on the property because her health is failing. Mr. Adams assumed responsibility for not renewing the two-year temporary permit stating his father in-law's death was very difficult for the family.

Member Katz said he was not prepared to ignore the County's rules regarding access.

Mr. Adams said the low-water crossing at CR 84C affects at least 50 families. He said the dip in the crossing can be an issue even during dry weather. "It's a fairness issue," stated Mr. Adams. He couldn't see how granting the variance could be injurious to his neighbors and he was willing to accept the risks that come with living in the county.

Mr. Adams said if approved they would meet all seven conditions.

Joseph Kames, legal counsel for Chris and Misha Peterson, adjacent residents of the subject property, said he supported the staff recommendation to deny the variances. The application does not meet any of the criteria for granting the variances. The applicant bases the request on financial hardship and the desire to live on the property – this does not meet the Code requirement of an extraordinary hardship relating to the physical condition of the property. The grounds for granting the variance do not exist in this request.

Mr. Kames noted that the Floodplain Administrator has recommended denial based on access and that decision for denial can only be overturned if there is an error. There is no error here. Fire Department representative Victoria DeVargas stated in her

report that the two arroyos actively flood at various times during the year and slope issues exist in this application.

Member Roybal pointed out that Mr. Karnes' clients use the low water crossing and it should not be grounds for denial. He understood how the applicant missed renewal of the temporary permit as well as the meter readings.

Member Martin asked whether Mr. Karnes received a response from the State Engineer regarding the well that was not disclosed to the OSE. Mr. Karnes said he has spoken with OSE counsel and a response is in the works.

Duly sworn, Mary and Bill Ogle, neighbors to the applicant, said they requested a building permit through the County and it was denied based on access. She said the County laws are important for the protection of the integrity of the environmental.

The public hearing was closed and Mr. Adams returned to the podium where he said the fairness of the law was important to him. He was surprised to hear of the Ogle's experience and said the rules need to be revisited.

Member Katz said the request did not address the variance criteria and in terms of equity since the Ogles did not receive a building permit for reasons of access and in terms of the betterment of the community, the Ogles do not want the variances granted.

Regarding CDRC Case V 13-5190, Member Katz moved to deny the variances on the basis of the facts. Member Drobnis seconded the motion. The motion passed by majority [5-2] voice vote with members Anaya and Roybal voting against.

~~B. CDRC CASE # Z/PDP/FDP 13-5070 95-B Ranch Road, Master Plan, Preliminary & Final Development Plan. Paul Reynolds & Tamara Andrews, Applicants, Jenkins/Gavin, Agent, request Master Plan Zoning, Preliminary and Final Development Plan approval to allow a horse boarding facility on 12.5 Acres ±. The property is located at 95-B Ranch Road, within Section 21, Township 15 North, Range 10 East, (Commission District 4). [Exhibits 1-3: Support letters; Exhibit 4: Graeser Law Firm letter dated April 26, 2013 – representing concerned neighbors – included were six letters dated June 11, 2013 addressed to different County divisions; Exhibit 5: Photo from opponents' property; Exhibit 6: August 10, 2013 letter to Commissioners from Bill Graveen opposing the request]~~

Member Katz recused himself from this case.

Mr. Larrañaga presented the staff report as follows:

“The Applicants request Master Plan Zoning approval to allow a horse boarding facility. The proposed facility will be completed in two phases. The request also

hearing is closed. What are the wishes of the Commission?

COMMISSIONER SULLIVAN: Move for approval.

CHAIRMAN MONTOYA: Motion by Commissioner Sullivan for approval.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Second, Commissioner Campos. Discussion?

The motion to approve CDRC Case #V 06-5330 passed by unanimous [5-0] voice vote.

- XII. A. 11. CDRC Case # A/V 06-5250 John and Minnie Walsh Appeal. John and Minnie Walsh Applicants, Request an Appeal of the County Development Review Committee's Decision to Uphold the Land Use Administrator's Decision to Deny the Temporary Placement of a Second Home on 1.19 acres. The Property is Located at 58 Arroyo Jacona, within Section 11, Township 19 North, Range 8 East, (Commission District 1)[*Exhibit 6: Pojoaque Map; Exhibit 7; Exhibit 7: PPEC Letter*]

MS. COBAU: Mr. Chairman, members of the Commission, on June 15, 2006, the CDRC met and acted on this case. The decision of the CDRC was to uphold the Land Use Administrator's decision to deny temporary placement of a second home on 1.19 acres. The property is located within the Basin Hydrological Zone where the minimum lot size is 10 acres per dwelling unit. Lot size may be reduced to 2.5 acres per dwelling unit if the applicant signs and records water restrictions.

There is currently one home, a septic system and one well on the property. The applicants have applied and been approved for an advanced septic system to serve the second dwelling. The applicants state that they have purchased a new home to replace the older dwelling on the property. The existing dwelling would be moved to another point on the property to be lived in by their daughter and her family. The applicant states that their intentions are to alleviate a financial hardship their daughter and her family would incur by the high prices they are forced to pay in rent.

Recommendation: On June 15, 2006 the CDRC met and acted on this case. The decision of the CDRC was to uphold the Land Use Administrator's decision to deny temporary placement of a second home on 1.19 acres. Staff recommends denial of the requested appeal based on Article III, Section 10, Lot size requirements of the Land Development Code which states that the minimum lot size in this area is 10 acres per dwelling unit. Lot sizes may be reduced to 2.5 acres per dwelling unit with water restrictions. If the decision of the BCC is to approve the request, staff recommends that the following conditions be imposed. Mr. Chairman, may I enter the conditions into the record?



[The conditions are as follows:]

1. A temporary permit will be issued for a period of two years, to be approved for consecutive two-year periods by the CDRC. The applicant at that time must prove the hardship still exists.
2. Water use shall be restricted to 0.25 acre-foot per dwelling. A water meter shall be installed for both homes. Annual water meter readings shall be submitted to the Land Use Administrator by January 31st of each year. Water restrictions shall be recorded in the County Clerk's office.
3. The applicant shall submit a liquid waste permit approved by the New Mexico State Environment Department for the second dwelling.
4. The applicant must follow all other building permit regulations.
5. The existing driveway shall serve both residences.
6. Failure to comply with any of these conditions shall result in administrative revocation of the permit.

CHAIRMAN MONTOYA: Okay. Questions for staff? What significance does the Mike Adams appeal have to this case?

MS. COBAU: Mr. Chairman, Mike Adams is the son-in-law of John and Minnie Walsh and he is acting as their agent. He lives in the home.

CHAIRMAN MONTOYA: Okay. Any other questions for staff?

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Does this qualify in any way for a family transfer? That's not what's being proposed, right?

MS. COBAU: Mr. Chairman, Commissioner Vigil, that's not what's being proposed here, so as a consequence it doesn't qualify as a family transfer.

COMMISSIONER VIGIL: And there's a temporary permit requested here?

MS. COBAU: That's correct. However, I believe the applicant will clarify that when he speaks.

COMMISSIONER VIGIL: Okay. Thanks.

CHAIRMAN MONTOYA: Okay, other questions for staff? Hearing none, if the applicant would please come forward.

[Duly sworn, Mike Adams testified as follows:]

MIKE ADAMS: Mike Adams. Mr. Chairman, Commissioners, there are some things that I'd like to clarify and add to the staff report that I don't think are very clear. One of the things is the advanced septic system is already approved for us to use one of those and in talking to the man I dealt with they said they've been very successful in lot sizes as small as a quarter acre. So I believe the issue of septic and environmental contamination is not a relevant one. We are asking actually for a permanent variance, permanent permission to build the second dwelling there.

I have an exhibit. The property is partially in the traditionally community and it's

just kind of like a line arbitrarily drawn, a few feet of it are in the traditional community and the rest of it isn't and the Land Use made the decision that that means the whole thing is not in there. But I do have an exhibit, a map of the planned development where the property will be part of the traditional community. You can also see exactly how it kind of got stuck out, so if I could approach you guys.

As you can see, the property is right at the very corner. I think the line was just kind of arbitrarily drawn right through the front of it. So that's one of the things to see, that's going to be part of the traditional community. It already borders, in fact it's partly in the traditional community. That's one of our requests is that you would just grant the rest of the property to be part of the traditional community.

That brings me to my third point - and I have another exhibit for you. There's not going to be any development in this area. We border the Pojoaque Pueblo and I have a letter from the Pueblo to the effect that they're not going to develop it. They call it their bison free range. So they're keeping that area reserved strictly for the buffalo to run. So if I could approach and give you this exhibit.

That brings me to my fourth point. It would be a tremendous financial hardship on us for you to rule against us because I'm a pastor and I'm on a fixed income. My wife and I are very committed to serving in northern New Mexico but because of the fact I'm on a fixed income buying a house would be very, very difficult. So this is an opportunity for us to have a house. We've got access to land and we can meet these requirements. It would be a great, great benefit to us.

CHAIRMAN MONTOYA: Okay. Any questions for the applicant?
Commissioner Vigil.

COMMISSIONER VIGIL: You're requesting a temporary permit. Could you explain that?

MR. ADAMS: That was the Land Use decision. I was always asking for a permanent variance. It would be our intention to live out there from now on if you agree.

COMMISSIONER VIGIL: And are you looking to place a mobile home?

MR. ADAMS: Yes, a three-bedroom dwelling.

COMMISSIONER VIGIL: What currently exists there? What's the dwelling that currently exists there? There is a double-wide three-bedroom and then the other dwelling that we would like to occupy is a single-wide three-bedroom that my in-laws had on the property and we would permission of the Land Use Department move it to another point on the property, depending on the outcome of this. So there's one dwelling that's occupied and hooked up to the well and septic system and there's one that's just being stored right now.

COMMISSIONER VIGIL: And what your hope is that this lot split occurs so that that second unoccupied mobile home becomes an occupied home.

MR. ADAMS: The primary dwelling for us.

COMMISSIONER VIGIL: So there will be two mobile homes on this.

MR. ADAMS: Right.

COMMISSIONER VIGIL: Thank you. I guess I'm done, Mr. Chairman. Do you conduct any services on site or are your services, your pastoral services conducted elsewhere?

MR. ADAMS: If we use it as a primary dwelling we would very much use it because we do what you call small-group Bible studies. Right now, we're not living there so obviously we're not doing anything there. But everywhere where our primary dwelling place is is always available and plus, being a pastor sometime we take people in and different things like that.

MS. COBAU: Mr. Chairman, Commissioner Vigil, I would like to clarify that this is not a land division. It's an application to place two homes on 1.19 acres. There's no land division involved.

CHAIRMAN MONTOYA: Any other questions for the applicant? If not, this is a public hearing. Is there anyone who would like to speak on behalf of or in opposition to this case, would you please come forward and be sworn in.

[Duly sworn, Michelle Adams testified as follows:]

MICHELLE ADAMS: Hello, my father and my mother is John and Minnie Walsh and I am there daughter and my husband and I are pretty much committing ourselves to being a pastor and making ourselves available to the community and our whole lifestyle is changing. And my father is also in poor health and it just makes sense in my heart that I could provide that to help my mom and my family that I'd be close by and help whatever. My dad's health is deteriorating so it's not just for low-income situation but there's a responsibility of being nearby. Thank you.

CHAIRMAN MONTOYA: Thank you, Michelle. Anyone else like to come forward? Seeing none, this public hearing is closed. What are the wishes of the Commission? I have a question. How many individuals will be living in your residence?

MR. ADAMS: Four.

CHAIRMAN MONTOYA: Four. So it's you two and two kids.

MR. ADAMS: Yes, we have two kids.

CHAIRMAN MONTOYA: And then in the other residence it's -

MR. ADAMS: Two, my in-laws.

CHAIRMAN MONTOYA: Okay. And as I understand, you'll be on that one septic system.

MR. ADAMS: No. There's an existing septic system.

CHAIRMAN MONTOYA: So that will still be used.

MR. ADAMS: Yes, that will be used for the other house and what we're going to do is use, if you approve it, the advanced treatment system, which as I've said the state said is effective. They've used them on lot sizes as small as a quarter acre.

CHAIRMAN MONTOYA: Okay. Any questions? Commissioner Vigil.

COMMISSIONER VIGIL: Staff is recommending that a temporary permit be issued to be reviewed every two years. Would you be amenable to that?

MR. ADAMS: Yes.

CHAIRMAN MONTOYA: What are the wishes of the Commission?

COMMISSIONER ANAYA: Mr. Chairman, I move that we approve this on a two-year temporary basis where staff reviews it and is there conditions?

CHAIRMAN MONTOYA: Yes, and that's actually one of them.

COMMISSIONER ANAYA: With conditions.

COMMISSIONER VIGIL: And I believe that the recommendation from staff was that it be reviewed by the CDRC to identify whether or not the hardship still exists. Is that what the intent on your motion was, Commissioner Anaya? I will second that.

CHAIRMAN MONTOYA: Okay, a motion and a second. Further discussion?

The motion to approve CDRC Case #A/V 06-5250 with conditions passed by unanimous [4-0] voice vote. [Commissioner Campos was not present for this action.]

- XII. A. 12. CDRC Case # V 06-5460 Santa Fe County Public Works Facility. Santa Fe County Project and Facility Management Department, Paul Olafson Agent, Request a Variance of Article III, Section 4.4.4c (Maximum Height) of the Land Department Code to allow a 27' Vehicle Washing Station, a 27'-4" Vehicle Service Garage and a 100' Wind Turbine, which would Exceed the Allowable Height of 24' to Allow Construction of a New Public Works Facility on 45.76 acres. The Property is Located on the NM State Road 599 Frontage Road, within Section 2, Township 16 North Range 8 East (Commission District 2) [Exhibit 8: CDRC 8/17/06 Minutes; Exhibit 9: Opposition Letter]

CHAIRMAN MONTOYA: Maybe we should table this one.

MS. COBAU: Mr. Chairman, members of the Commission, Santa Fe County Projects and Facilities Department requests a variance of Article III, Section 4.4.4.c of the Land Development Code in order to allow a 27-foot vehicle washing station, a 27-foot 4-inch vehicle service garage and a 100-foot wind turbine for the new Public Works facility.

The Public Works Facility will be located on a 45.76-acre site surrounded primarily by state-owned properties and privately owned and operated commercial and light and heavy industrial uses, just north of Airport Road off the NM 599 frontage road. And there's a map in Exhibit C.

Article III, Section 4.4.4c of the Code states that "Structures shall be limited to a maximum height of 36 feet from the highest point of the surface of the ground at the perimeter of the structure in major or community center districts."

Letter of Intent requesting a family property transfer and division

I, Minnie Walsh would like to subdivide and transfer part of my 1.195 acres of land. We are requesting a subdivision and transfer of approximately 0.30 acres located at 58 Arroyo Jaconita to my daughter Michelle Walsh Sanchez-Adams and my son-in-law Michael Adams.

I would like to transfer the land for the following reasons;

- 1) Help my daughter and her family establish a permanent dwelling. They need clear title to the land to build a house on the property.
- 2) Help my daughter's family maintain their ties to the community through their church ministry and other connections (work in Pojoaque, school, etc.)
- 3) Maintain our family ties to the land my daughter grew up on and be physically close to me.

In 2006, we were granted a permit to place a second home for my daughter's family on the site. We had intended to do the transfer in 2008, but my husband John passed away in June of that year. It has taken a few years for our family to focus on taking the steps towards making a home for my daughter's family permanent.

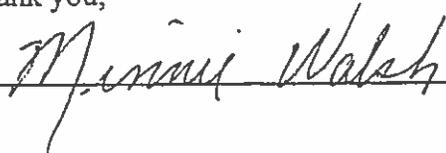
My daughter and her family have complied with the state requirements for their advanced septic system and well. They also have approved electrical and propane connections.

The property division will allow them to place a home on a permanent foundation.

Our family appreciates you time and consideration in this matter.

Thank you,

Signed, Minnie Walsh





Kristoffer and Misha Peterson
19 Loma Encantada
Santa Fe, NM 87506

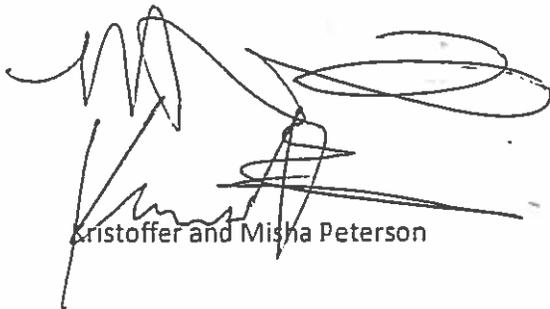
July 2, 2013

Santa Fe Land Use Commissioners

RE: CDRC Case # V 13-5190
58 Arroyo Jaconita Family Transfer

We have examined the documentation for the above Case. We wish to object strongly to the proposed parcel split at 58 Arroyo Jaconita. It was our understanding that the current mobile home was a temporary living situation. We have to wonder, how long is temporary? (CDRC Case # APP 06-5250) Upon placement of the mobile home and for many years after there has been no attempt to maintain the structure or surrounding property. Therefore, resulting in an eye sore for the neighborhood and ultimately affecting the quality of the surrounding properties. Our property and home are located directly adjacent to the above parcel and we have to question both erosion hazards and septic issues that might affect surrounding topography and wells. When we purchased our property we made an investment in rural country living. By definition rural living constitutes low population. In closing we believe that the parcel split and current state of the property are a detriment to the area; we are against the parcel split at 58 Arroyo Jaconita.

Sincerely,



Kristoffer and Misha Peterson



RE: CDRC Case # V 13- 5190

58 Arroyo Jaconita Family Transfer

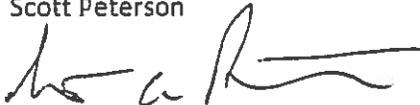
We are against the split of that parcel for the following reasons:

1. It was understood that current use was to be "TEMPORARY" and therefore we had no objection to the second mobile home being placed, given how nice Minnie's home has been kept. However, no attempt has been made to improve the appearance of the second mobile home or its surrounding area, and it has become an eye sore and a detriment to the neighboring properties. The second mobile home has been there roughly seven years, how long is temporary? (See CDRC Case # APP 06-5250 enclosed)
2. We also question the legitimacy of the current septic system and worry about the impact of the increased sewage on neighboring wells. It may not even be possible to have a well and septic on such a small lot given the fact that an arroyo takes up a considerable portion of the lot.
3. There is no permanent all weather access to this site or others in the area or any scheduled or regular maintenance to these easement accesses. Increasing density would be a burden to First Responders. Why create a new parcel that does not adhere to current County Policies regarding access?
4. Allowing this split would be a precedent for others to seek property splits into substandard size parcels, adversely affecting the rural setting of the area, which has been in the Pojoaque Valley's long term plan to preserve.

In conclusion, our current County Land Use Ordinances deal quite clearly with these issues, and we see this case as a poor candidate for a variance. Therefore, we are against the approval of splitting the 1.195 acre parcel into two .597 acre parcels.

We would like to be informed about the outcome of this case. Thank You.

Scott Peterson



Eva Peterson



25 Loma Encantada

Santa Fe, NM 87506

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July 31, 2013

Office of the State Engineer
Co/ Steve Mastevich
PO Box 21502
Santa Fe, NM 87504

Re: Report of Violation

Dear Mr. Mastevich:

I am writing to advise you of a violation of State law involving two Section 72-12 wells being permitted and constructed on one lot and to request that the Office of the State Engineer takes action as necessary to ensure compliance with applicable State law.

Attached as Exhibit A is a copy of the plat for certain property consisting of 1.19 acres owned by Minnie Walsh located in Jaconcito, Santa Fe County, New Mexico (the "Property").

Attached as Exhibit B is a copy of the OSE file for RG-38560, which was applied for by John P. Walsh, approved and drilled on the Property in 1982.

Attached as Exhibit C is a copy of the OSE file for RG 88512, which was applied for by Mike Adams, approved and drilled on the Property in 2006.

It is apparent that Mike Adams (who is not the property owner) failed to disclose to the OSE the existence of a well on the property when he submitted his application for RG 88512.

The second well is particularly relevant given the pending application before Santa Fe County for a Family Transfer which, if approved, would divide Property into two lots, with a well and a dwelling unit on each lot. (Exhibit D) The County application identifies only RG 88512 and fails to identify the well serving the existing dwelling unit in the southerly portion of the Property.

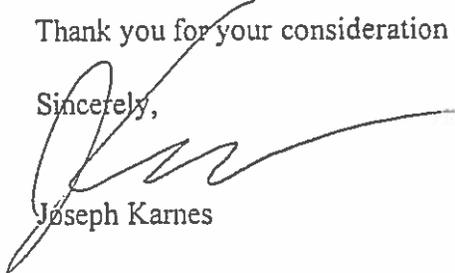
The Santa Fe County Development Review Committee is scheduled to consider the Walsh application on August 15, 2013. We would appreciate your response to this letter and an indication of the actions that you will be taking in advance of that meeting.

Sommer, Karnes & Associates, LLP

OSE
July 31, 2013

Thank you for your consideration of this request.

Sincerely,



Joseph Karnes

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

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

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

SECTION 10 - LOT SIZE REQUIREMENTS

10.1 Relationship of Lot Sizes to Water Policies

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



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

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

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

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

BASIN FRINGE ZONE: Same as Basin Zone.

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

MOUNTAIN ZONE: Same as Homestead Zone.

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

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

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

10.2 Calculation of Minimum Lot Size

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

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

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

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

Where:

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

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

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

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

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

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

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

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

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

10.2.2 Calculation of Use

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

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

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

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

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

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

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

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

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

10.2.4 Special Standards for Calculation of Water Availability for Metropolitan Areas

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

a. Standard Values of Water Availability

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

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

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

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

b. Adjustments for Water Conservation

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

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

10.3 Exceptions to Minimum Lot Size Requirements

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

10.3.1 Metropolitan Area - Community Water Systems

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

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

10.3.2 Agricultural Areas

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

10.3.3 Traditional Communities

The minimum lot size in traditional communities as shown on Code Maps 40-57, shall be .75 acres, except as follows:
14,000 sq. ft. - Where community water service and community sewer service systems are utilized, or a Local Land Use and Utility Plan is adopted.

10.3.4 Urban Areas

The minimum lot size in Urban Areas shall be 2.5 acres, except as follows:
1 acre - Where community water or community liquid waste disposal systems are utilized.
.50 acre - Where community water and community sewer systems are utilized.

10.4 Density Transfer

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

SECTION 11 - IMPORTING OF WATER

11.1 Location Requirements

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

submittal list and explanation with the development permit application form.

2. Reviews

(a) Lot Size Requirement Review

The Code Administrator shall review the application for compliance with the lot size requirements of the Code

(b) Access

(i) All development sites created under this Section shall demonstrate that access for ingress and egress, utility service, and fire protection whether by public access and utility easement or direct access to a public right-of-way can be provided and meet the requirements of this Code.

(ii) Installation of culverts, where applicable, shall be required at intersections of driveways with County roads.

(iii) Road Construction and/or Road Cut Permits must be obtained prior to road or driveways construction. The applicant must provide submittals for new construction pursuant to this Section 2.4.1 and meet standards as applicable and as required in Article V, Section 8, Subdivision Design Standards, and Article VII, Section 3, Terrain Management. Notification of all affected property owners and posting of notice will be required for roads and driveways accessing more than one property.

(c) Special District Review

The Code Administrator shall check the location of the proposed dwelling, and if the location of the proposed dwelling is within a Special Review District as described in Article VI, the Code Administrator shall inform the applicant of any additional submittals or reviews required, if any, and make the applicable review.

(d) Environmental Review

The Code Administrator shall inform the applicant of any additional submittals and make the reviews required under Article VII - Environmental Requirements.

(e) Siting Review

The Code Administrator shall review the application for compliance with the site planning standards. Additional submittals in connection with the siting may be required: site visits to assure compliance with the standards of Section 2.3 of this Article and approval of the Code Administrator will also be required.

(f) Building, Mechanical and Electrical Code Review

The Code Administrator shall cause the submitted plans and specifications to be reviewed for compliance with Article IV - Construction Codes of the Code and for engineering design.



8.1.2 The Santa Fe County Master Plan For Roads

- a. Pursuant to 3-19-9 N.M.S.A., 1978, the Santa Fe County Master Plan for Roads establishes the general location of existing and proposed highway and arterial roads for the purpose of assuring a coordinated system of roads in Santa Fe County.
- b. The Santa Fe County Master Plan for Roads may be amended by resolution from time to time to accommodate changing or changed conditions.

8.1.3 Legal access shall be provided to each lot and each lot must directly access a road constructed to meet the requirements of Section 8.2 of this Article. Parcels to be accessed via a driveway easement shall have a twenty (20) foot all weather driving surface, grade of not more than 11%, and drainage control as necessary to insure adequate access for emergency vehicles.

8.1.4 Dead end roads may not serve more than thirty (30) dwelling units, except that the Code Administrator with the concurrence of the Fire Marshal may approve the development of more than thirty (30) lots on a dead end road. The Code Administrator may require a second access for any development with fewer than thirty (30) dwelling units where issues of public health, safety and welfare exists.

8.1.5 Coordination of Roads With Surrounding Property

- a. The arrangement of roads in a development shall provide for the continuation or appropriate projection of existing or proposed highway or arterial roads in surrounding areas according to the Santa Fe County Master Plan for Roads, and shall provide reasonable means of ingress and egress to surrounding property.
- b. Where land is subdivided into large tracts or where there is a potential for further subdivision or development of subsequent phases exists, the proposed development shall be designed to provide for a coordinated road system for the entire tract.
- c. Where it is in the public interest to establish a right-of-way or access to property which adjoins a proposed development, the right-of-way shall be extended to the boundary of the property which is the subject of a development application. The right-of-way shall either be dedicated to the County or granted to the Owner's Association, subject to a conditional dedication governed by Article V, Section 8.1.9. Such right-of-way shall be designated on the master or phase development plan and on the plat as a public access.

8.1.6 Access to highways and arterials: buffering requirements

- a. Where a proposed subdivision contains lots abutting or adjacent to an arterial or highway, it shall be planned so as to avoid having lots having frontage on said thoroughfares.
- b. The subdivision shall be laid out to have a minimum number of intersections with arterials or highways, and where appropriate, shall provide at least two separate points of ingress and egress to assure adequate access, and shall be designed for all weather conditions. Driveways from lots shall access local roads and may access collector roads on a limited basis as approved by the County Development Review Committee.
- c. Where the subdivision is traversed by or is adjacent to a state or federal highway, and in addition to these regulations, the subdivision must satisfy the New Mexico State Highway Department Regulations Covering Design and Construction of Driveways on Non-Controlled Access Highways in New Mexico, a copy of which is on file in the office of the Code Administrator for public inspection.
- d. Where a subdivision borders on or contains a railroad right-of-way or a limited access highway right-of-way, a parallel road or frontage road may be required at a distance suitable for the appropriate use of the intervening land. Such distances shall also be

EXHIBIT

7.

V - 21

RECORDER'S OFFICE

ARTICLE 4

FLOODPLAIN DEVELOPMENT PERMIT PROCEDURAL REQUIREMENTS

SECTION 4.1 AREAS REQUIRING A FLOODPLAIN DEVELOPMENT PERMIT

A. For development within a designated SFHA, including lands which are traversed by, bisected by, or directly adjacent to the SFHA designated on the effective FIRM as described in Article 2, §2.2C, Article 3, §3.2 and Article 3, §3.10, a Floodplain Development Permit issued by the Floodplain Administrator in conformity with the provisions of the Ordinance shall be secured pursuant to Article 3, §3.3(B) prior to commencement of construction.

SECTION 4.2 INELIGIBLE NEW DEVELOPMENT OR CONSTRUCTION

At no time shall a Floodplain Development Permit be issued for a new dwelling unit site, lot, parcel or tract of land intended for placement of a habitable structure including single family homes, residential subdivisions, modular home sites and modular home subdivisions where the site is:

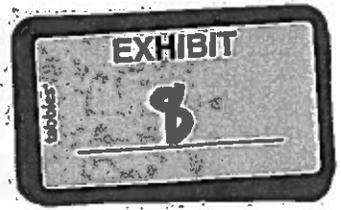
- i. An alternative buildable area located outside the limits of the SFHA is available;
- ii. Unable to be removed from the SFHA through the formal FEMA map revision process described in Article 4, §4.4;

iii. Absent access.

SECTION 4.3 PROCEDURES FOR SUBDIVISION PROPOSALS

All subdivision proposals which include area traversed by, bisected by, or directly adjacent to SFHA, including manufactured home parks and manufactured home subdivisions shall be required to secure a Floodplain Development Permit per Article 4, §4.4, and:

- A. SFHA may be used in computation of density;
- B. SFHA may be utilized to meet open space criteria;
- C. Primary and secondary subdivision access as required by County Code must be all weather access;
- D. For phased subdivisions, an overall Master Drainage Analysis shall be provided which demonstrates that floodplain management policies and stormwater management criteria will be compliant with this Ordinance and function independently in each phase, or construction of the entire conveyance system will be required in the first phase of construction.



2.5 Zoning

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

2.6 Subdivisions

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

2.7 Other Requirements

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

SECTION 3 - VARIANCES3.1 Proposed Development

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

3.2 Variation or Modification

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

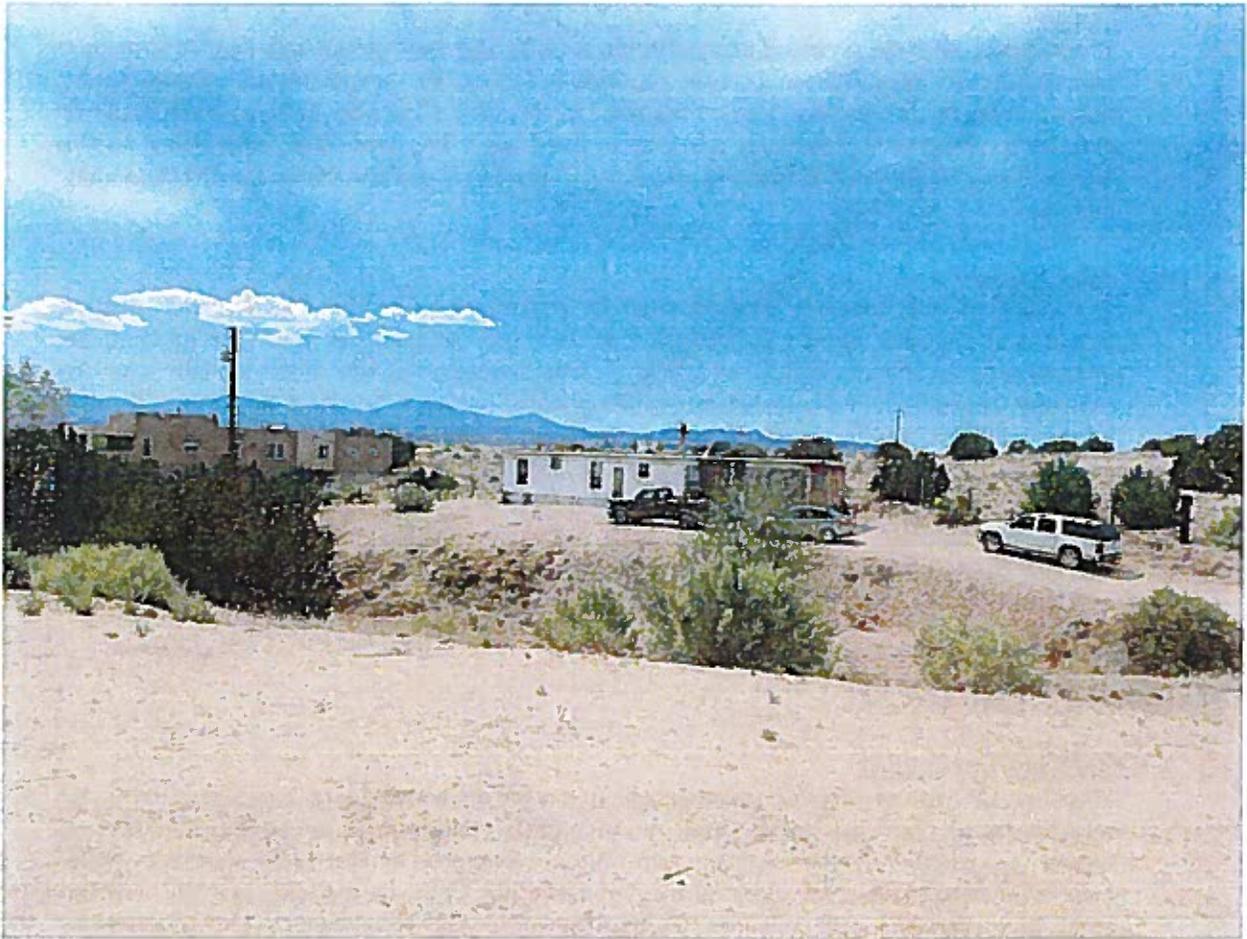
3.3 Granting Variances and Modifications

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

3.4 Height Variance in Airport Zones

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





Minnie Walsh

58 Arroyo Jaconita



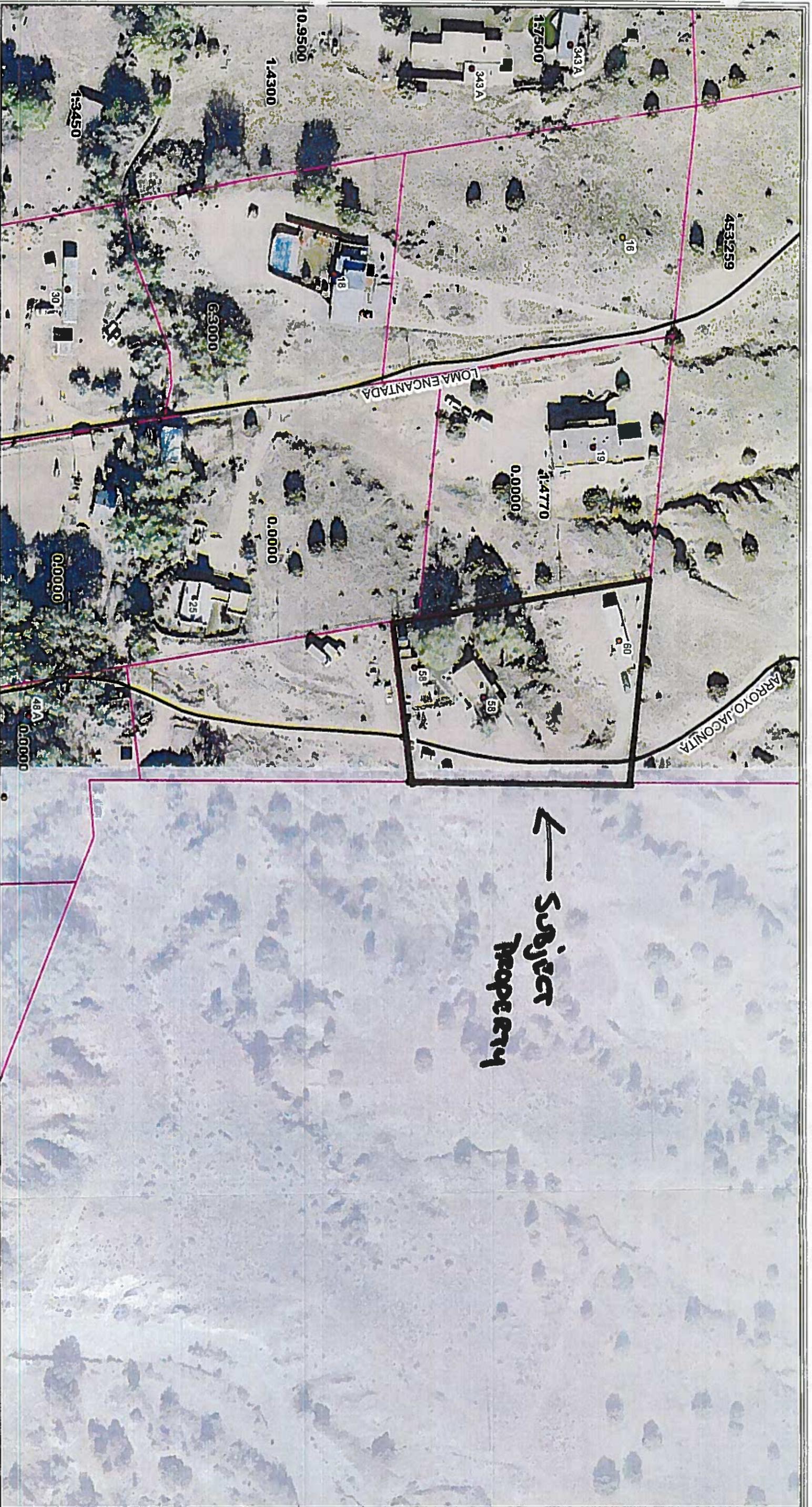


Minnie Walsh

58 Arroyo Jaconita



Minnie Walsh
58 Arroyo Jaconita



Legend

ROADS

Parcels



1:1,200
1 inch represents 100 feet

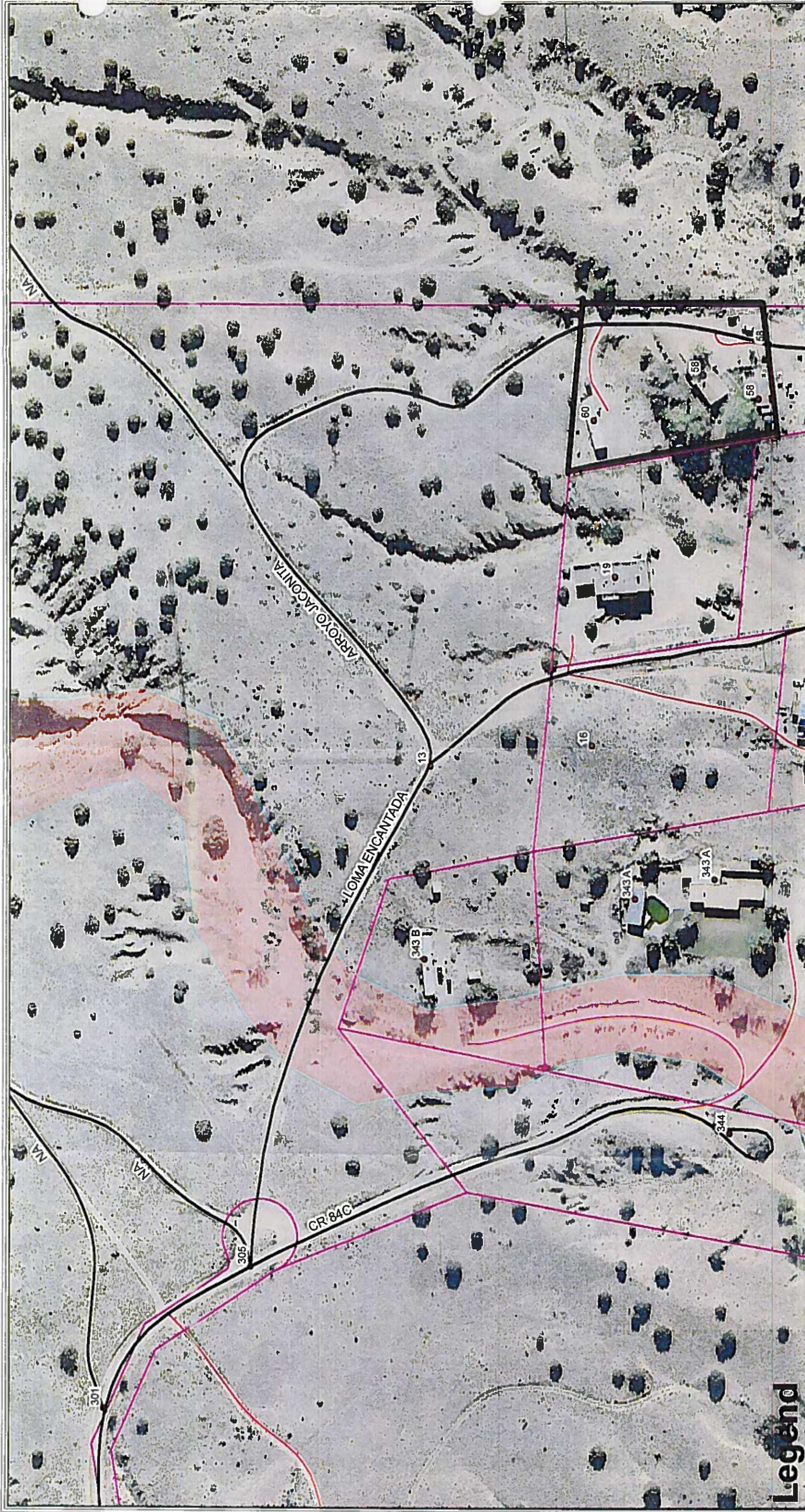


2008 Orthophotography
2 FOOT CONTOURS

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

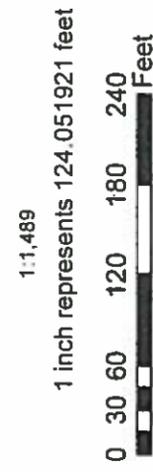
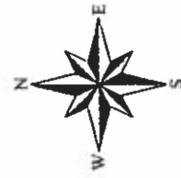


August 2, 2013



2008 Orthophotography
2 FOOT CONTOURS

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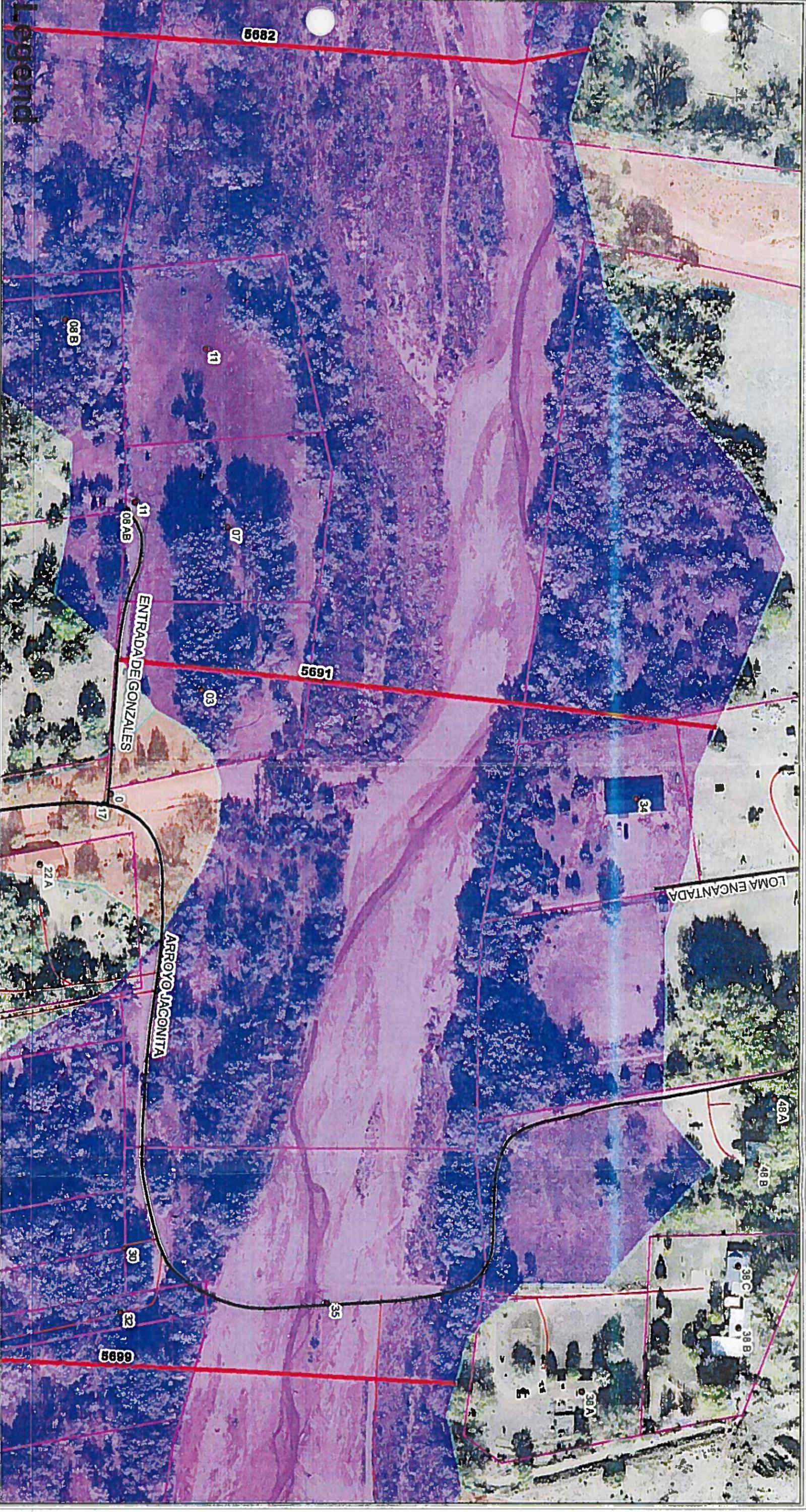


-  ROADS
-  DRIVEWAYS
-  Parcels

Legend

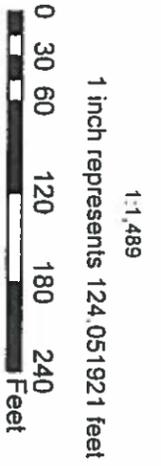


August 7, 2013



Legend

-  ROADS
-  DRIVEWAYS
-  Parcels



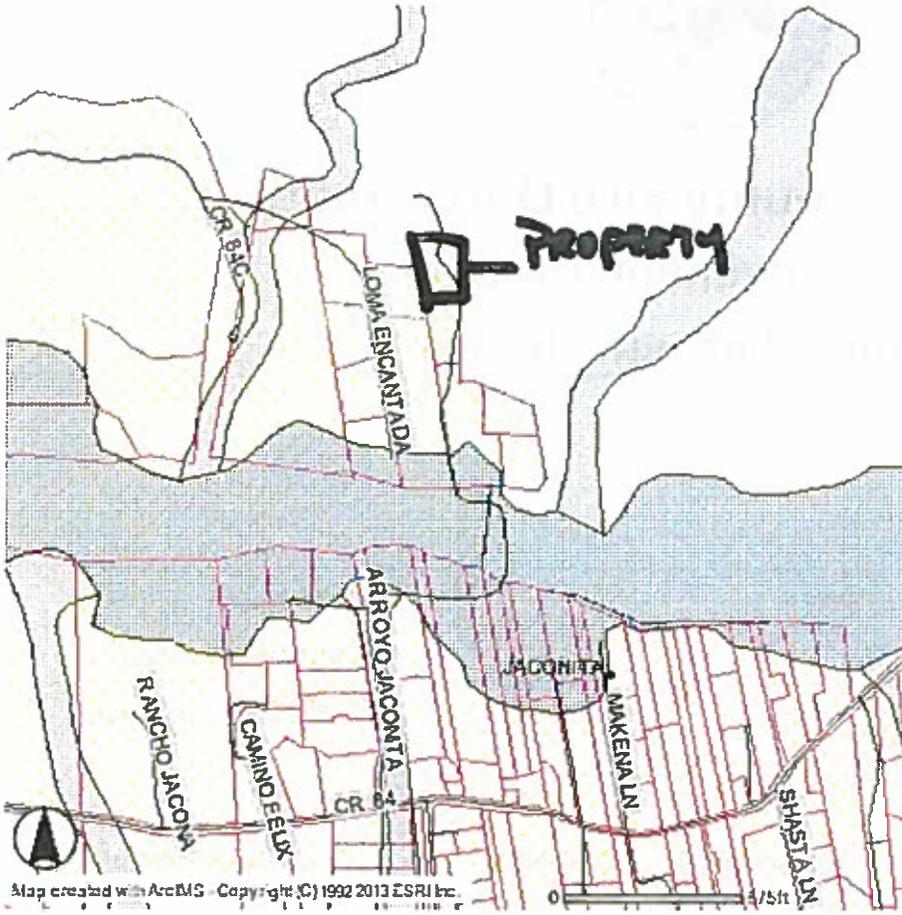
2008 Orthophotography
2 FOOT CONTOURS

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August 7, 2015

36



Daniel "Danny" Mayfield
Commissioner, District 1

Miguel Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

Santa Fe County Fire Department Fire Prevention Division

Official Submittal Review

Date	7/18/13		
Project Name	Walsh, Minnie		
Project Location	58 Arroyo Jaconita		
Description	Variance -- Family Transfer	Case Manager	J. Lovato
Applicant Name	Minnie Walsh	County Case #	13-5190
Applicant Address	58 Arroyo Jaconita Santa Fe, NM 87506	Fire District	Pojoaque
Applicant Phone	505-670-5394		
Review Type	Commercial <input type="checkbox"/>	Residential <input checked="" type="checkbox"/>	Sprinklers <input type="checkbox"/>
	Master Plan <input type="checkbox"/>	Preliminary <input type="checkbox"/>	Final <input type="checkbox"/>
	Wildland <input type="checkbox"/>	Variance <input checked="" type="checkbox"/>	
		Hydrant Acceptance <input type="checkbox"/>	
		Inspection <input type="checkbox"/>	Lot Split <input checked="" type="checkbox"/>
Project Status	Approved <input type="checkbox"/>	Approved with Conditions <input type="checkbox"/>	Denial <input checked="" type="checkbox"/>

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

Summary of Review

- The primary access to this property via Arroyo Jaconita does not meet the requirement of an all weather driving surface, being that it is an active arroyo and actively floods at various times of the year. (*page #2*)
- Properly assigned legible rural addresses shall be posted and maintained at the entrance(s) to each individual lot. (*page #2*)
- Property owner(s) shall contact the Santa Fe Regional Emergency Communication Center and flag this address to have an emergency access through County Road 84C. (*page #2*)
- Both the driveway and fire access have areas that exceed the 11% slope requirement. (*page #3*)



- Due to the remote location of this proposed residence, the lack of water and the possibility of this residence being made inaccessible due to the low water crossings during inclement weather, for life safety and property protection the installation of an Automatic Fire Suppression system meeting NFPA 13D requirements shall be required in future development. (page #3)

Fire Department Access

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

- **Roadways/Driveways**

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

The primary access to this property via Arroyo Jaconita does not meet the requirement of an all weather driving surface, being that it is an active arroyo and actively floods at various times of the year.

There is an alternate access to this property via Santa Fe County Road 84C through the Jacona Land Grant. If applicant can prove easement through this route, it would be designated as emergency access only and should be specified on the plat as such. This road would require minimum road improvements of widening to a minimum of 14' wide and an all weather driving surface shall be required.

A turn around meeting Santa Fe County Fire Department Access Road Requirements shall be required.

- **Street Signs/Rural Address**

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

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

Properly assigned legible rural addresses shall be posted and maintained at the entrance(s) to each individual lot or building site within 72 hours of the commencement of the development process for each building.

Property owner(s) shall contact the Santa Fe Regional Emergency Communication Center and flag this address to have an emergency access through County Road 84C. This access shall also be marked so that it can be easily found by emergency personnel.

- **Slope/Road Grade**

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

Both the driveway and fire access have areas that exceed the 11% slope requirement.

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

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

Automatic Fire Protection/Suppression

Due to the remote location of this proposed residence, the lack of water and the possibility of this residence being made inaccessible due to the low water crossings during inclement weather, for life safety and property protection the installation of an Automatic Fire Suppression system meeting NFPA 13D requirements shall be required in future development. Assistance in details and information are available through the Fire Prevention Division.

It is also recommended that the homeowner and/or property owner contact their home insurance carrier to find out more information on minimum requirements for coverage.

Life Safety

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

General Requirements/Comments

- **Inspections/Acceptance Tests**

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

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

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

- **Permits**

As required

Final Status

Recommendation for Final Development Plan Denial until the above conditions have been applied.

Victoria DeVargas, Inspector

Victoria DeVargas
Code Enforcement Official

7/16/13
Date

Through: David Sperling, Chief
Buster Patty, Fire Marshal *BP*

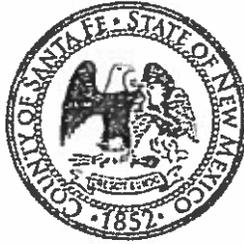
File: NorthReg/Dev Rev/Poj/WalshMinnieVAR.doc

Cy: J. Lovato, Land Use
Applicant
District Chief
File

Daniel "Danny" Mayfield
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: August 7, 2013

TO: John Lovato, Development Review Specialist Senior

FROM: Vicki Lucero, CFM, Building and Development Services Department Manager, Floodplain Administrator

REF.: CDRC Case # V 13-5190 Minnie Walsh Variance

The Applicant is requesting approval to allow a family transfer land division of 1.195 acres into two lots. The proposed lots will not be benefited by all-weather access as required by Code. This application has been reviewed specifically for compliance to Ordinance 2008-10 (Flood Damage Prevention and Stormwater Management Ordinance).

Article 4, Section 4.2 states: "At no time shall a Floodplain Development Permit be issued for a new dwelling unit, site, lot, parcel or tract of land intended for placement of a habitable structure including single family homes, residential subdivisions, etc, when ... the site is absent all weather access. A Floodplain Development Permit will not be issued based upon the following:

1. Arroyo Jaconita, which is the primary access used to access the subject parcel, is within a federally mapped Special Flood Hazard Area, Zone AE. The Zone AE designation indicates these areas will be inundated by floodwater during the 1% recurrence interval storm event, or 100-year storm. This area has been studied by FEMA and Base Flood Elevations have been determined. Secondary access to the site is via Loma Encantada, which is also within a federally mapped Special Flood Hazard Area, Zone A. The Zone A designation indicates these areas will be inundated by floodwater during the 1% recurrence interval storm event, or 100-year storm. This area is unstudied by FEMA and depth, velocity and duration of inundation are not provided
2. The primary and secondary access to the site, are through dirt road low water crossings, which do not provide dry access for emergency vehicles during storm events.
3. Section 5.11 (Basis for Approval or Denial) (E) states: "Approval or Denial of a Stormwater Management Analysis (none provided by applicant), that approval may not be given when certain relevant factors are present", including "The safety of access to the property in times of flood for ordinary and emergency vehicles"
 - a. The applicant has not provided a Stormwater Analysis which identifies the quantity, depth, and velocity of the flows present in the crossings. This information would be

needed to assess the potential danger of this crossing. Note that flow depths of as little as 12", when velocity is considered, are enough to wash away or create buoyancy of an average vehicle. Additional danger arises when motorists are unable to view the driving surface and enter inundated areas. Injury or death can occur if the driving surface has been scoured away by high velocity floodwater, and unknowing motorists often attempt to cross these inundated areas without regard for the surface of the road. Notably, death during flash flood events are surpassed only by hurricane fatalities, and more deaths occur nationwide from flood related deaths than any other natural disaster. This is a dangerous and sometimes deadly situation.

- b. As a minimum, the applicant should be required to provide an analysis of the depth and velocity of flooding expected at this crossing using the methodology and techniques presented in Ordinance 2008-10, and place a culvert or other conveyance as needed based on the report to provide dry access for emergency vehicles.
4. Ordinance 2008-10 contains specific criterion that recommending and approval bodies must consider. These are copied below:
- A. *The Board of County Commissioners (Board) after recommendation by the County Development Review Committee (CDRC) shall hear and render judgment on a request for variance from the requirements of this Ordinance.*
 - B. *The CDRC may recommend and the Board take action on an appeal of the Floodplain Administrator's decision only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Ordinance.*
 - C. *Any person or persons aggrieved by the decision of the Board may appeal such decision to a court of competent jurisdiction within thirty days of the Board's decision.*
 - D. *The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.*
 - E. *Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Ordinance.*
 - F. *Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C(2) of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.*
 - G. *Upon consideration of the factors noted above and the intent of this Ordinance, the Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Ordinance (Article I, Section C).*
 - H. *Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.*

- I. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.*
- J. Prerequisites for granting variances:*
 - 1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.*
 - 2. Variances shall only be issued upon, (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, the creation of a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.*
 - 3. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.*
 - 4. Variances may be issued by the Board for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in Article 4, Section D(1)-(9) are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.*

Finding:

This application does not meet the standards required for the creation of lots as described in the Code and Ordinance 2008-10, and in considering the criteria for variance issuance as noted above does not meet these criteria, therefore as Santa Fe County Floodplain Administrator, it is **recommended that this variance is denied based on the lack of all-weather access to the proposed lots.**

Be advised that should the BCC grant approval of this variance, as noted in the federally mandated conditions for variance, FEMA must be notified of this decision as required by Federal Code of Regulations.

Should the BCC approve this case the following note should be placed on the Plat:

The access to this property does not meet minimum standards set forth by County Ordinance and Code. Site access, including access by Emergency vehicles, may not be possible at all times.

John F. Lovato

From: Bencomo, Michael T., NMENV <michaelt.bencomo@state.nm.us>
Sent: Friday, August 16, 2013 9:29 AM
To: John F. Lovato
Subject: FW: Scan - SITE EVALUATION FOR MIKE ADAMS/JOHN WALSH
Attachments: Scanned from District II Espanola Field Office.PDF

Hey John, I went out and took measurements to verify setbacks. The google earth aerial has the measurements showing the setbacks. Everything looks fine. We don't have anything to do with the well, that's a state engineer issue. But working with the engineer's office it's probably OK for them to have both wells. As I mentioned before, a Split-flow is used when too much Nitrogen is being dumped onto the property. 80% of Nitrogen in a household is in the toilet waste, so the Adams have eliminated most of the Nitrogen with their two large holding tanks.

-----Original Message-----

From: do2scanner@state.nm.us [<mailto:do2scanner@state.nm.us>]
Sent: Tuesday, August 13, 2013 5:15 PM
To: Bencomo, Michael T., NMENV
Subject: Scan - SITE EVALUATION FOR MIKE ADAMS/JOHN WALSH

Please open the attached document. It was scanned and sent to you using a Xerox multifunction device.

Attachment File Type: PDF, Multi-Page

Multifunction device Location: machine location not set
Device Name: esxerox

For more information on Xerox products and solutions, please visit <http://www.xerox.com>

MIKE AND MICHELLE ADAMS. / John WALSH.



Google earth

feet
meters



$$\frac{1.14''}{3.28''} = \frac{100'}{200'}$$

ACTUAL MEASUREMENTS (by Michael Bencomo, 8-13-13)

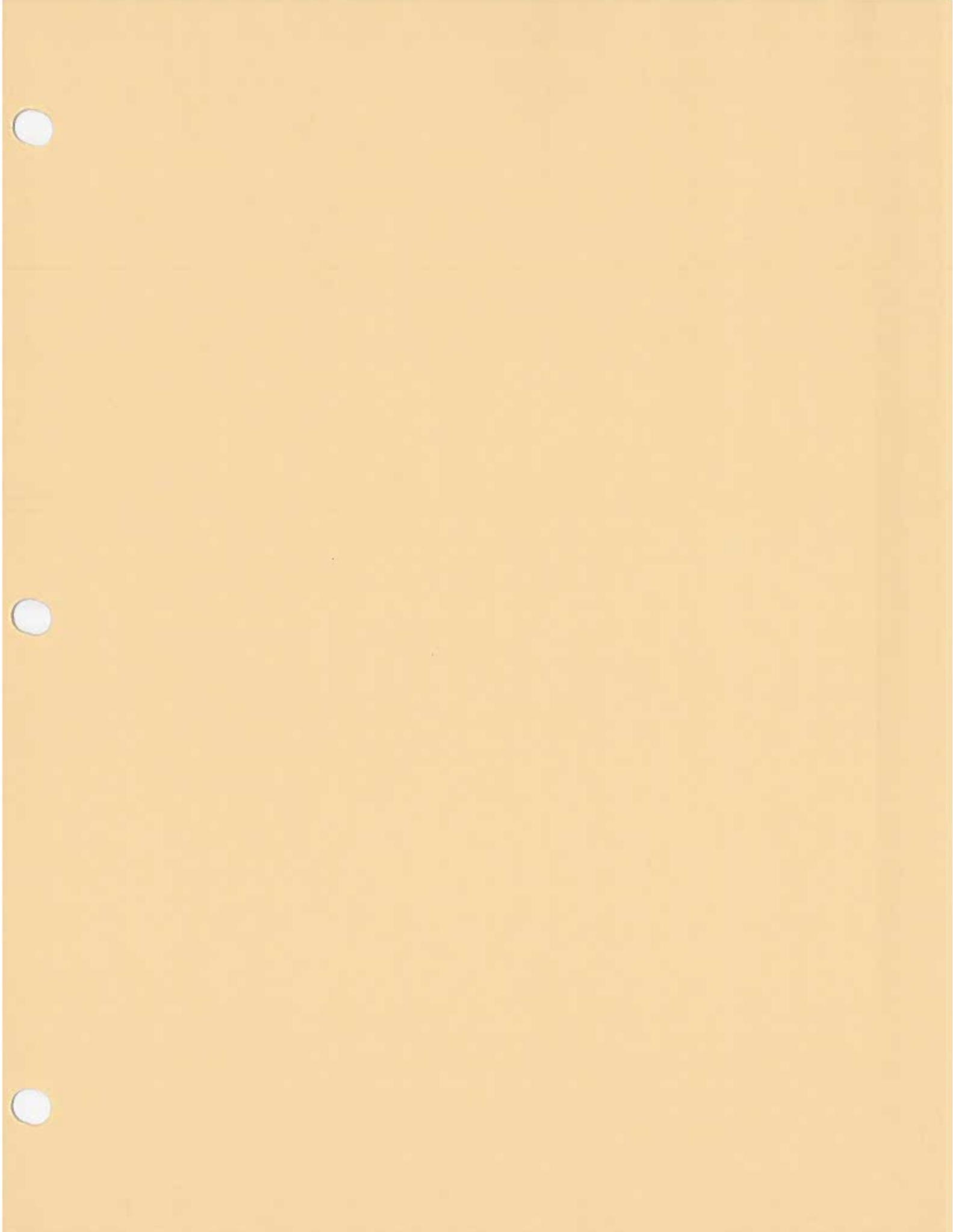
$$1.1'' = 100'$$

$$\sqrt{84^2 + 52^2} = 98.79' \text{ (From Adams Well to Holding Tank.)}$$

$$\sqrt{160^2 + 52^2} = 168' \text{ (From Parent's Well to Holding Tank.)}$$

100' (From Adams Well to Septic Tank)

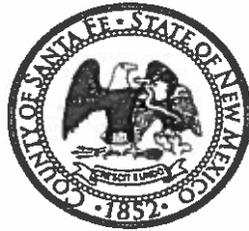
110' (From Adams Well to Leachfield), 46.



Danny Mayfield
Commissioner, District 1

Miguel Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: October 8, 2013

TO: Board of County Commissioners

FROM: John Lovato, Development Review Specialist Senior

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

FILE REF.: CDRC CASE # V 13-5110 Ellen Jacobs Variance

ISSUE:

Ellen Jacobs, Applicant, Joseph Karnes Agent, requests a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow two dwelling units on 2.29 acres.

The property is located at 55 Camerada Loop, in the vicinity of Eldorado, within Section 10, Township 15 North, Range 9 East, (Commission District 5)

Summary:

The Applicants Agent requests tabling of this case due to the Applicant being out of State.

