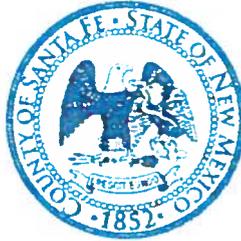


**Daniel "Danny" Mayfield**  
Commissioner, District 1

**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:** May 14, 2013

**TO:** Board of County Commissioners

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

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

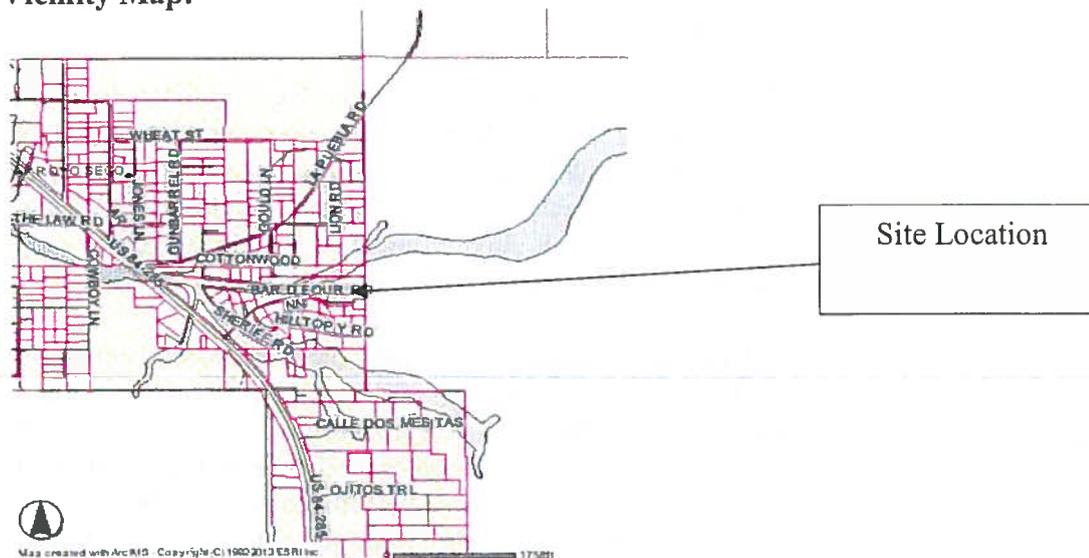
**FILE REF.:** CDRC CASE # V 13-5040 Roddy & Sherry Leeder Variance

**ISSUE:**

Roddy & Sherry Leeder, Applicants, Ralph Jaramillo, Agent, request 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 the placement of a manufactured home on 7.68 acres.

The property is located at 25 Bar D Four Road, in the vicinity of Arroyo Seco, within Section 18, Township 20 North, Range 9 East, (Commission District 1).

**Vicinity Map:**



**REQUEST SUMMARY:**

The Applicant requests a variance to allow the placement of a manufactured home on 7.68 acres. Access to the subject property would be off Bar D Four road which is a dirt road/private roadway crossing a FEMA designated Special Flood Hazard Area, via an existing low water concrete dip section which may be frequently impassible during inclement weather, and thereby is not all weather accessible.

There is currently a residence and the proposed manufactured home on the property. The residence was permitted in July of 2010, under permit (# 10-343). The proposed manufactured home was allowed to be temporarily placed on the property for a period of 90 days while the Applicant proceeds through the variance process.

The Applicants state they have seven children and it is expensive to live in the market at the current moment and they want to help their children with housing.

**This Application was submitted on February 7, 2013.**

**On March 21, 2013, the CDRC met and acted on this case, the decision of the CDRC was to recommend approval of the Applicant's request by a 4-3 vote.**

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

**APPROVAL SOUGHT:**

Approval for the placement of a manufactured home on 7.68 acres, which due to site conditions would require a variance from 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).

**VARIANCES:**

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) of the County Code states: "Where in the case of proposed development, it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted condition or that these conditions would result in inhibiting the achievement of the purposes of the Code, the applicant may submit a written request for a variance." This Section goes on to state "In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified".

**GROWTH MANAGEMENT AREA:** El Norte, SDA-2

**HYDROLOGIC ZONE:** Traditional Community of La Puebla, minimum lot size per Code is 0.75 acres per dwelling unit. Proposal meets minimum lot size criteria.

**ACCESS:** Via concrete low water dip section, does not comply with minimum Code criteria.

**FIRE PROTECTION:** La Puebla Fire District.

**WATER SUPPLY:** Domestic Well

**LIQUID WASTE:** Conventional Septic System

<b>AGENCY REVIEW:</b>	<u>Agency</u>	<u>Recommendation</u>
	County Fire	Denial
	Floodplain Admin.	Denial

**STAFF RECOMMENDATION:** Denial of a variance from Article III, § 2.4.1a.2.b (Access) of the Land Development Code and denial of a variance of Article 4, § 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management).

If the decision of the BCC is to approve the Applicants request for variances, staff recommends imposition of the following conditions:

1. Water use shall be restricted to 1.00 acre feet per year per home. A water meter shall be installed for the proposed home. Annual water meter readings shall be submitted to the Land Use Administrator by January 1<sup>st</sup> of each year. Water restrictions shall be recorded in the County Clerk's Office (**As per Article III, § 10.2.2 and Ordinance No. 2002-13**).
2. The Applicant must obtain a development permit from the Building and Development Services Department for the placement of the proposed home (**As per Article II, § 2**).
3. The Applicant shall comply with all Fire Prevention Division requirements at time of Development Permit Application (**As per 1997 Fire Code and 1997 Life Safety Code**).
4. A restriction must be placed on the Warranty Deed regarding the lack of all-weather access to the subject lot. This restriction shall include language as follows: the access to this property does not meet minimum standards set forth by County Ordinances and Code. Site access including access by emergency vehicles, may not be possible at all times (**As per Ordinance #2008-10**).

**EXHIBITS:**

1. Letter of request
2. Review Agency Comments
3. Article III, § 2.4.1a.2.b (Access)
4. Article V, § 8.1.3 (Legal Access)
5. Article 4, § 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management)
6. Article II, § 3 (Variances)
7. Site Plan
8. Site Photographs
9. Aerial of Site and Surrounding Area
10. March 21, 2013 CDRC Meeting Minutes

Wayne Dalton  
Santa Fe County Land Use  
Santa Fe, New Mexico 87501

February 6, 2013

Roddy and Sherry Leeder  
#25 Bar D Four Rd.  
Arroyo Seco, New Mexico 87501

Re: Requesting Variance for Double Wide Mobile Home

Dear Mr. Dalton

We at this time are requesting a variance along with a permit for allowing us to place a 1986 Double Wide Mobile Home, Oakley 28X52 onto our property, described as #25 Bar D Four Rd. in Arroyo Seco. More particularly described as Tract A within Section 18, T20N, R9E, N.M.P.M., Vicinity of Arroyo Seco Consisting of 7.685 ac. more or less.

The Subject Mobile Home is currently on the property and has not been hooked up to any utilities or any such matter.

On December 7, 2012 Penny Ellis Green, Land Use Director has given us permission along with a letter to allow us to move subject mobile home onto property as long as we go through the process to request a variance and without connecting to any utilities.

We have seven children and grandchildren and as we all know how expensive it is to live and with the way the market is at the current moment, we are wanting to help our children with housing.

We appreciate your consideration and support in this manner and hope and pray that you can approve this for us.

Sincerely,



Roddy and Sherry Leeder, Ralph Jaramillo, Agent



Daniel "Danny" Mayfield  
 Commissioner, District 1

Miguel Chavez  
 Commissioner, District 2

Robert A. Anaya  
 Commissioner, District 3



Kathy Holian  
 Commissioner, District 4

Liz Stefanics  
 Commissioner, District 5

Katherine Miller  
 County Manager

## Santa Fe County Fire Department Fire Prevention Division

### Official Development Review

Date	3/4/2013		
Project Name	Leeder, Roddy		
Project Location	25 Bar D Four Road in Arroyo Seco		
Description	Variance to Flood Plain	Case Manager	J. Lovato
Applicant Name	Roddy and Sherry Leeder	County Case #	13-5040
Applicant Address	25 Bard D Four Road Santa Fe, NM 87506	Fire District	La Puebla
Applicant Phone	505-490-7720 (agent Ralph Jaramillo)		
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"/>
Project Status:	Approved <input type="checkbox"/>	Approved with Conditions <input type="checkbox"/>	Denial <input checked="" type="checkbox"/>
		Inspection <input type="checkbox"/>	Lot Split <input type="checkbox"/>

The Fire Prevention Divison/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 goes through a low water crossing that does not meet Santa Fe County Fire Department Access Road requirements of an all-weather driving surface. The Santa Fe County Fire Prevention Division is not able to approve this project without additional fire safety requirements which meet the 1997 Uniform Fire Code, Article 9, Section 902.2.1 requirements. (*page #2*)
- The circle drive that was approved in July 2010 no longer exists. An emergency vehicle turn around meeting Santa Fe County Fire Department Access Road requirements shall replace the circle drive that was removed. (*page #2*)
- Properly assigned legible rural addresses shall be posted and maintained at the entrance(s) to each individual lot or building site. (*page #2*)



- Due to its remote location and the possibility of this residence being made inaccessible due to inclement and various other weather conditions, for life safety and property protection this office requires the installation of Automatic Fire Protection Sprinkler systems meeting NFPA13D requirements (*per 1997 UFC – Article 10 Section 1001.9: Special Hazards*).  
(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 goes through a low water crossing that does not meet Santa Fe County Fire Department Access Road requirements of an all-weather driving surface. The Santa Fe County Fire Prevention Division is not able to approve this project without additional fire safety requirements which meet the 1997 Uniform Fire Code, Article 9, Section 902.2.1 requirements.

The circle drive that was approved in July 2010 has not been built. The circle drive or a turn around meeting Santa Fe County Fire Department Access Road requirements shall be built prior to approval.

#### **▪ 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.

#### **▪ 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.*

This driveway/fire access shall/does not exceed 11% slope and shall have a minimum 28' inside radius on curves.

▪ **Restricted Access/Gates/Security Systems**

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

To prevent the possibility of emergency responders being locked out, all access gates should be operable by means of a key or key switch, which is keyed to the Santa Fe County Emergency Access System (Knox Rapid Entry System). Details and information are available through the Fire Prevention office.

## **Automatic Fire Protection/Suppression**

Due to its remote location and the possibility of this residence being made inaccessible due to inclement and various other weather conditions, for life safety and property protection this office requires the installation of Automatic Fire Protection Sprinkler systems meeting NFPA 13D requirements (per 1997 UFC – Article 10 Section 1001.9: Special Hazards).

All Automatic Fire Protection systems shall be developed by a firm certified to perform and design such systems. Copies of sprinkler system design shall be submitted to the Fire Prevention Division for review and acceptance prior to construction. Systems will not be approved unless tested by the Santa Fe County Fire Department. Fire sprinklers systems shall meet all requirements of NFPA 13-D Standard for the Installation of Sprinkler Systems.

All sprinkler and alarm systems as required shall be tested and approved by the Santa Fe County Fire Department, prior to allowing any occupancy to take place. It shall be the responsibility of the installer and/or developer to notify the Fire Prevention Division when the system is ready for testing.

## **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.

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## 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 is applied.

*Victoria DeVargas, Inspector*

*Victoria DeVargas*  
Code Enforcement Official

3/5/13  
Date

Through: David Sperling, Chief/Fire Marshal  
Buster Patty, Fire Prevention Captain

File: NorthReg/DevRev/LaPuebla/LeederRoddy-VAR.doc

Cy: ~~J. Poyato, Land Use~~  
Applicant  
District Chief  
File

Enclosed: Fire Department Access Requirements  
(applicant only)

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:** March 4, 2013

**TO:** John Lovato, Development Review Specialist Senior

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

**REF.:** CDRC Case # V 13-5040 Roddy and Sherry Leeder

---

The Applicant is requesting approval to allow the placement of a manufactured home on 7.68 acres. The manufactured home 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. Bar D Four Road, used to access the subject parcel, is 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 site is accessed by a concrete low water crossing, which does 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 flow present in the dip section. 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 1, 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 placement of a manufactured home 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 home.

Be advised that should the BCC recommend 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.**

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

4.

V - 21

14

## 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 NON-ELIGIBLE 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 all weather 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 - VARIANCES

### 3.1 Proposed Development

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

### 3.2 Variation or Modification

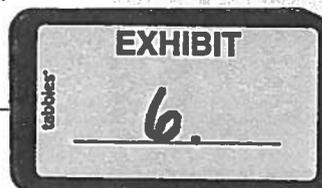
In no case shall any variation or modification be more than a minimum easing of the requirements.

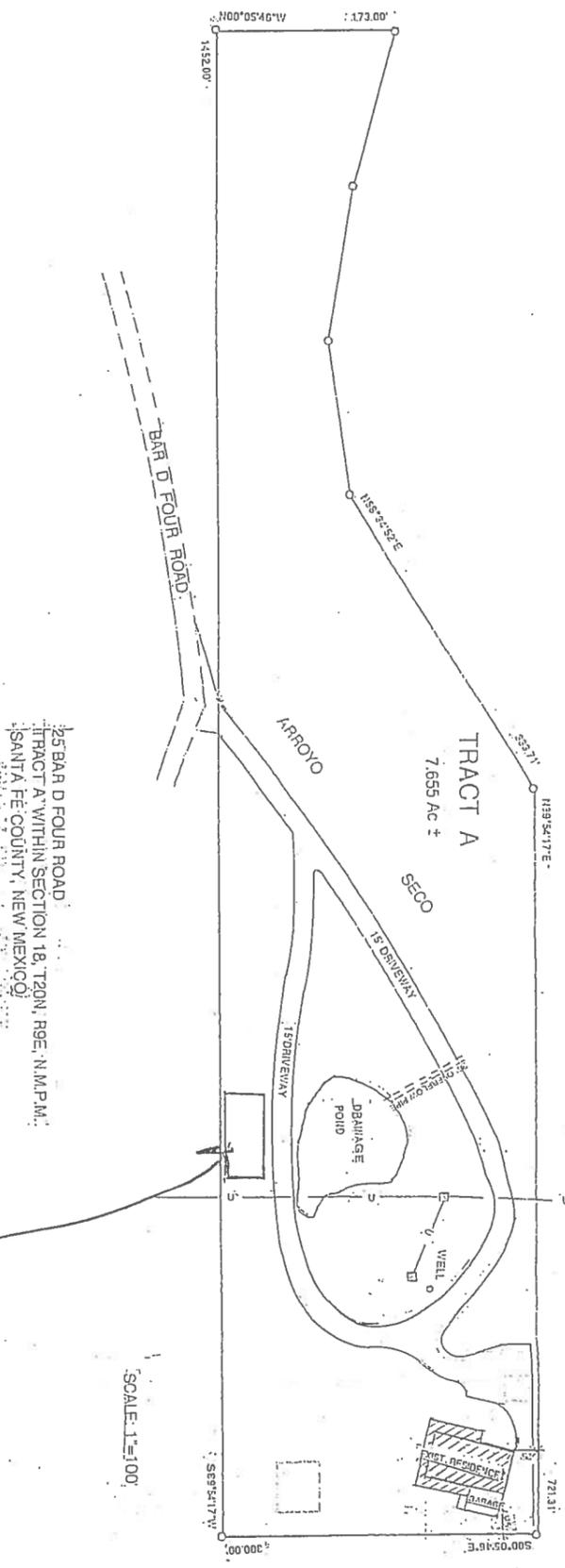
### 3.3 Granting Variances and Modifications

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

### 3.4 Height Variance in Airport Zones

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





*Proposed Residence*

LEEDER RANCH HOUSE		DRAWN BY JLP	
25 BAR D FOUR ROAD		REVISED	
SCALE: 1"=100'	APPROVED BY:	DATE: 4/6/11	
GARAGE ADDITION		DRAWING NUMBER	
SITE PLAN		17	
		S-1	



Roddy & Sherry

Leeder





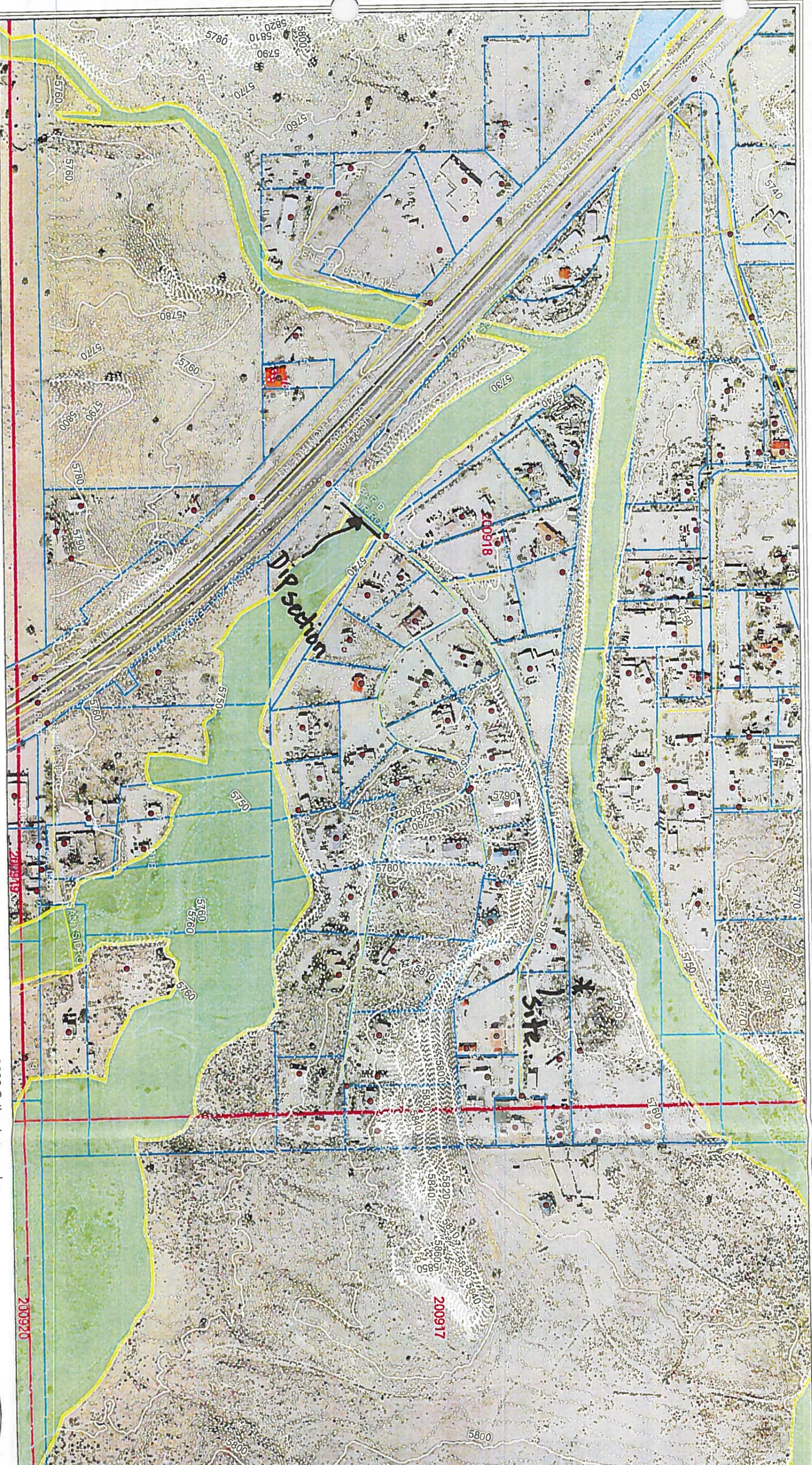
Roddy & Sherry

Leeder



Roddy & Sherry

Leader



**Legend**

- Major
- Minor
- Parcels
- 0.2% Annual Chance Flood Hazard
- 2012 Zone A
- 2012 Zone AE
- 2012 Zone AO
- 2012 Zone D



1:3,241

1 Inch = 270,117,507 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.

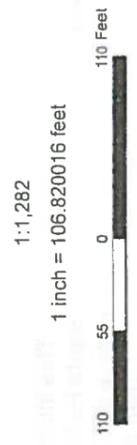




March 13, 2013

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.



- Legend**
- 0.2% Annual Chance Flood Hazard
  - Major
  - Minor
  - 2012 Zone A
  - 2012 Zone AE
  - 2012 Floodways
  - 2012 Zone AO
  - 2012 Zone D
  - Parcels

1:1,282

1 inch = 106.820016 feet

Member Anaya moved to approve CDRC CASE # Z/S 08-5440, Tierra Bello Subdivision, with staff recommendations. Member DeAnda seconded.

Member Katz said he appreciated the discussions that took place and with the covenants having been clarified he no longer had those concerns.

Member Drobnis asked whether there was any legal basis for the County to enact the Association's request for a temporary ban on development in the proposed area. Ms. Brown responded that this proposal meets Code requirements.

Member DeAnda said this case has been on the Committee's agenda many times and she was pleased the developer has met with the community. With the assurance of staff that there is sufficient water for the development and the immediate area she was prepared to move this application forward.

Member Martin lauded Mr. Miller in his efforts to accommodate and meet with the neighbors. However, water availability and drought continue to concern her and she was not able to support the application.

Chair Gonzales thanked the area residents and Mr. Miller for working together. He pointed out that the CDRC's recommendation will be forwarded to the BCC for their action.

The motion passed by majority [6-1] voice vote with Member Martin voting against.

- B. CDRC CASE # V 13-5040 Roddy & Sherry Leeder Variance: Roddy & Sherry Leeder, Applicants, Ralph Jaramillo, Agent, request 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 the placement of a manufactured home on 7.68 acres. The property is located at 25 Bar D Four Road, in the vicinity of Arroyo Seco, within Section 18, Township 20 North, Range 9 East, (Commission District 1)**

Mr. Lovato provided the staff report as follows:

"The Applicant requests a variance to allow the placement of a manufactured home on 7.68 acres. Access to the subject property would be off Bar D Four Road which is a dirt road/private roadway crossing a FEMA designated Special Flood Hazard Area, via an existing low water concrete dip section which may be frequently impassible during inclement weather, and thereby is not all weather accessible.



“There is currently a residence and the proposed manufactured home on the property. The residence was permitted in July of 2010, under permit (# 10-343). The proposed manufactured home was allowed to be temporarily placed on the property for a period of 90 days while the Applicant proceed through the variance process. The Applicants state they have seven children and it is expensive to live in the market at the current moment and they want to help their children with housing. This Application was submitted on February 7, 2013.”

Mr. Lovato stated that Growth Management staff has 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 that the variance from Article III, § 2.4.1 a.2.b (Access) of the Land Development Code and denial of a variance of Article IV, § 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management) be denied.

If the decision of the CDRC is to recommend approval of the Applicants’ request for variances, staff recommends imposition of the following conditions:

1. Water use shall be restricted to 1.00 acre-feet per year per home. A water meter shall be installed for the proposed home. Annual water meter readings shall be submitted to the Land Use Administrator by January 1<sup>st</sup> of each year. Water restrictions shall be recorded in the County Clerk’s Office (As per Article III, § 10.2.2 and Ordinance No. 2002-13).
2. The Applicant must obtain a development permit from the Building and Development Services Department for the placement of the proposed home (As per Article II, § 2).
3. The Applicant shall comply with all Fire Prevention Division requirements at time of Development Permit Application (As per 1997 Fire Code and 1997 Life Safety Code).
4. A restriction must be placed on the Warranty Deed regarding the lack of all-weather access to the subject lot. This restriction shall include language as follows: the access to this property does not meet minimum standards set forth by County Ordinances and Code. Site access including access by emergency vehicles, may not be possible at all times (As per Ordinance #2008-10).

Member Katz asked about the number of residences served by the road and Mr. Lovato said he lacked the exact number but there were a lot of homes there. Member Katz asked whether there were any FEMA issues with this property and Mr. Lovato responded in the negative.

Mr. Lovato confirmed that the road was not maintained by the County. Member Roybal said there are a lot of low-water crossing throughout Pojoaque and flooding occurs perhaps twice a year and will last for less than an hour. He said these low-crossings are throughout the County and he saw it as an equity issue in preventing this individual from building.

As the County's Flood Plain Administrator, Ms. Lucero and she focuses on following the County's Stormwater Management Ordinance as well as the Flood Damage Prevent Ordinance. Those ordinances establish that new residences cannot be constructed without an all-weather structure. FEMA does not mandate an all-weather crossing. She noted that the Sustainable Land Development Code may have additional language dealing with these issues.

Fire Marshal Patty said the 1997 Uniform Fire Code defines legal access, and a low-water crossing is not considered an all-weather crossing. He agreed with Member Roybal that the flooding happens rarely and for a very short period of time. The existing homes in the area are considered legal non-conforming. Because the road does not meet the UFC, staff is required to recommend denial.

Chair Gonzales asked what it would take to correct the crossing and Marshal Patty stated he was not engineer said a bridge or culvert but he had no idea of the cost.

Noting there were over 20 lots in the area, Chair Gonzales asked whether there have been calls that the fire department could not respond to because of the road. Marshal Patty was unaware of any incidents of that nature.

Chair Gonzales asked whether the County had plans to build a low-water crossing and Marshal Patty said the developer is responsible for access.

Duly sworn, Ralph Jaramillo, agent for the applicant, said the Leeders acquired the property a few years ago and he served as their realtor. The applicants have adequate density and desired to locate four mobile homes on the property for some of their seven children. The applicants were preparing to submit final documents to the County when they were advised that because of FEMA requirements the application would require a variance. He estimated that there were 60 homes in the area using the crossing under consideration. Mr. Jaramillo said his mother was from this area and he has never heard her mention a flood issue.

Mr. Jaramillo said prior to the Leeders purchasing the property he did research to insure they could place four mobile homes on the lot. There were no FEMA problems at that time.

Responding to Member DeAnda, Mr. Jaramillo said there are two mobile homes on the property.

Chair Gonzales asked whether Mr. Leeder considered building a bridge and Mr. Jaramillo said he was not in a position to do so.

Member Roybal estimated the length of the crossing to be 145 feet and the cost to build a FEMA acceptable bridge anywhere over \$500,000.

Member Martin asked about the water restrictions pointing out that the property was located within a traditional community, Mr. Dalton said there is a one acre-foot restriction.

Member Katz moved to approve the application with staff-imposed conditions. Member Martin seconded.

Member DeAnda said unless the County is willing to support ordinances that have been established to improve situations throughout the County things will not change. She said the flood situation concerned her and other neighboring residents may want to provide housing for their children making the situation direr. She said the property was purchased a few years ago and is not a long standing circumstance for the Leeders. She said she would be voting against this variance. Member Drobnis agreed with Member De Anda.

The motion passed by majority [4-3] voice vote with Members Martin, DeAnda and Drobnis voting again.

- C. ~~**CDRC CASE # V 13-5050 Patrick Christopher & Marga Friberg- Variance: Patrick Christopher & Marga Friberg, Applicants, request 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) to allow the construction of a residence on 15.3 acres. The property is located at 250C Kalitaya Way off Old Buckman Road, within Section 29, Township 19 North, Range 8 East, (Commission District 1). [Exhibit 3: Santa Fe County Fire Department – Official Development Review]**~~

Mr. Dalton read the case caption and staff memo as follows:

~~“The Applicants request a variance to allow the construction of a residence on property consisting of five lots which total 15.3 acres. The lots consist of 3.84 acres, 3.87-acres and three 2.5-acre lots. The subject properties are part of a subdivision created in the 1940’s with the US Government’s “Small Parcel Act” which assisted veterans in acquiring their own property. The properties all have Land Patents from the US Government dating from 1962, and are recognized as legal lots of record.~~

~~“As part of the permitting process, the Applicants have agreed to consolidate all five lots in order to have the proposed residence on one lot consisting of 15.3 acres. The Applicants intend to sell the property contingent upon the outcome of the variance process and the buyer of the property will be constructing the residence.~~

~~The property is accessed by Old Buckman Road which is a County maintained road on BLM land, and Kalitaya Way which is a public road on BLM land. Old Buckman Road is a dirt/sand driving surface and is located in, and crosses two FEMA designated Special Flood Hazard Areas, numerous contributing arroyos~~

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