

Henry P. Roybal
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: December 30, 2014

TO: Board of County Commissioners

FROM: Miguel "Mike" Romero, Development Review Specialist Sr *(MR)*

VIA: Katherine Miller, County Manager

Penny Ellis-Green, Growth Management Director *PE*

Vicki Lucero, Building & Development Services Manager *VL*

Wayne Dalton, Building & Development Services Supervisor *WD*

FILE REF: BCC CASE # PCEV 14-5420 Ernest Chavez Vacation of Plat

ISSUE:

Ernest Chavez, Applicant And Robin Suellen Chavez (Personal Representative Of The Estate Of Jesse Chavez), Applicant, (Sommer, Karnes & Assoc., LLP), Joseph Karnes, Agent For The Estate, request approval to vacate a recorded Survey Plat on two properties totaling 36.38 acers.

The property is located at 210 Entranosa Rd., within Section 28, Township 11 North, Range 7 East, (Commission District 3).

Vicinity Map:



SUMMARY:

The original lots (**Tract 1, 18.02 acres and Tract 2, 18.36 acres**) were created on September 10, 1979. On or about August 30, 2006, the property owners Ernest Chavez and Jesus (aka Jesse) Chavez entered into a real estate contract to sell Tract 1 and Tract 2 to Padlock, LLC. On January 25, 2007, Padlock LLC submitted an application to Santa Fe County for a Lot Line Adjustment on two lots. On April 25, 2007, a Lot Line Adjustment Plat was recorded with the County Clerk's Office, which changed the north-south lot line to an east-west lot line and altered the size of the two Tracts, which became (**Tract 1-R, 25.00 acres and Tract 2-R, 11.58 acres**) (Refer to Exhibit 4).

In 2011 Padlock LLC defaulted on the real estate contract and deeded Tract 1 back to Jesus Chavez and Tract 2 back to Ernest Chavez. On January 20, 2013, Jesus Chavez passed away leaving his spouse Robin Suellen Chavez Sole Beneficiary and Personal Representative of his Estate. The agent for the Estate has provided documentation (Personal Representative Proof of Authority) from the Santa Fe County Probate Court recorded in the Santa Fe County Clerk's Office on August 12, 2014, instrument No. 2014-0106. The joint Applicants (Ernest Chavez and Robin Suellen Chavez) request to vacate the Lot Line Adjustment Plat and return the properties back to their original state as they were originally created in 1979, by the plat prepared by Thomas Martinez, recorded on September 10, 1979 in the Santa Fe County Clerk's Office as document 445-771, (Refer to Exhibit 4). The Applicants state, because the real estate contract had not been paid off, the Chavez Brothers retained legal title to the two Tracts. The Applicants also state, they did not sign the Lot Line Adjustment Plat, which was subsequently recorded and neither of the Chavez Brothers received notice of the Lot Line Adjustment Application prior to its approval, join in or consent to the adjustment. However, for Lot Line Adjustment Plats the "Code" requires that notice must be posted on the property and the Applicant shall provide written certification of posting of the notice to the Code Administrator. The Applicant was not required to send certified mail to property owners within a 100 ft. of their property lines. The Applicant, Padlock LLC met all noticing requirements of the "Code". The current Applicants further state, they learned of the Lot Line Adjustment only when unpaid taxes threatened the titles to their properties. Since this time, Padlock, LLC has deeded the properties back to the Chavez Brothers.

The Applicant has provided sufficient noticing for the request to vacate the Lot Line Adjustment Plat by providing proof of notice to the New Mexican, which was published on December 23, 2014 and Certified mail receipts (dated December 22, 2014) and certification of posting that the public notice has been posted for 21 days on the property.

Article V, § 5.7.1 (Cause) states any Final Plat filed in the office of the County Clerk may be vacated or a portion of the Final Plat if:

- a) The owners of the land proposed to be vacated sign an acknowledgment statement, declaring the Final Plat or a portion of the Final Plat to be vacated, and the statement is approved by the Board; or

- b) The Board finds that a plat was obtained by misrepresentation or fraud and orders a statement of vacation to be prepared by the County.

Article V, § 5.7.2 (Action) states, "Action shall be taken at a public meeting. In approving the vacation of all or a part of a Final Plat, the Board shall decide whether the vacation will adversely affect the interests of persons on contiguous land or of persons within the subdivision being vacated. In approving the vacation of all or a portion of a Final Plat, the Board may require that roads dedicated to the County in the Final Plat continue to be dedicated to the County."

Article V, § 5.7.3 (Filing) states, "The approved statement declaring the vacation of a portion or all of a Final Plat shall be filed in the office of the County Clerk."

Article V, § 5.7.4 (Utilities) states, "The rights of any utility existing before the total or partial vacation of any Final Plat are not affected by the vacation of a Final Plat."

Joint Applicants, two Applications submitted. Ernest Chavez, Applicant, Application submitted on September 12, 2014. Robin Suellen Chavez, Applicant, Application submitted by Joseph Karnes, Agent for the Estate, on September 23, 2014.

Growth Management staff have reviewed this Application for compliance with pertinent Code requirements and finds the project is in compliance with County criteria for this type of request.

APPROVAL SOUGHT: Approval to vacate a Lot Line Adjustment Plat on two properties totaling 36.38 acres and return the properties back to their original state.

GROWTH MANAGEMENT AREA: SDA 2

HYDROLOGIC ZONE: Homestead Hydrologic Zone, minimum lot size per Code is 160 acres per dwelling unit. Lot size can be reduced to 40 acres per dwelling unit with signed and recorded water restrictions.

FIRE PROTECTION: Edgewood Fire District.

WATER SUPPLY: None

LIQUID WASTE: None

VARIANCES: None

AGENCY REVIEW: Agency Recommendation
Fire Prevention Division Letter of Approval

STAFF RECOMMENDATION: Approval to vacate a Lot Line Adjustment Plat on two properties totaling 36.38 acres and return the properties back to their original state, as shown on the plat recorded in the Santa Fe County Clerk's Office as document No. 445-771 subject to the following conditions:

1. A Mylar of the plat to be vacated shall be re-recorded in the County Clerk's Office with a statement declaring the vacation of the Final Plat.

EXHIBITS:

1. Letters of request
2. Article V, Section 5.7 (Vacation of Plats)
3. Site Photographs
4. Survey Plat (1979)/Survey Plat (2007)
5. Aerial of Site and Surrounding Area
6. Fire Prevention Letter

Ernest Chavez
707 Santa Fe S.E.
Albuquerque, New Mexico 82102
505-804-8896

August 6, 2014

Santa Fe County Board of Commissioners
102 Grant Avenue
Santa Fe, NM 87504

Re: Lot Line Adjustment Recorded April 25, 2007:
Instrument No. 1480106, Book 652, Page 045, Santa Fe County Records

Dear Board of Commissioners:

I am Ernest Chavez, a title holder of one of the parcels of property in which boundaries were changed by the above-referred to Lot Line Adjustment.

The Lot Line Adjustment referred to above was applied for by Padlock LLC, an entity that did not have title to all of the land included in the Lot Line Adjustment. I had no notice that the Lot Line Adjustment was proposed or applied for. It therefore was applied for, platted, approved and recorded in Santa Fe County without my knowledge or consent.

Please vacate, rescind or void the referred-to Lot Line Adjustment and return the recorded boundaries and ownership status of my parcel to the status it had prior to the April 7, 2007 referenced Lot Line Adjustment.

Please provide me with proof that the Santa Fe County Board of Commissioners has taken the action I am requesting.

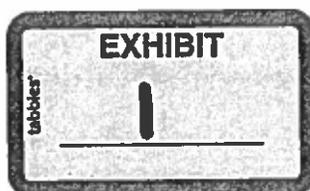
If you have any questions or comments, please let me know at your earliest convenience.

Very truly yours,

Ernest Chavez



EC/s
Encl.



SOMMER, KARNES & ASSOCIATES, LLP

Mailing Address
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Santa Fe, New Mexico 87504-2476

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Santa Fe, New Mexico 87501

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jrh@sommer-assoc.com
Of Counsel
Licensed in New Mexico and California

September 23, 2014

Via Hand Delivery

Penny Ellis-Green
Santa Fe County Land Use Department
102 Grant Avenue
Santa Fe, NM 87501

Re: Request for Vacation of Lot Line Adjustment Plat

Dear Penny:

The purpose of this application is to nullify a lot line adjustment plat that was approved by the Land Use Administrator and recorded without the knowledge or consent of the property owners. We request that the County, either through its Land Use Administrator or the BCC, record a document that will have the effect of recognizing the prior configuration of the two involved lots as the legal lots of record. The lot line adjustment plat was void ab initio due to the lack of signatures of the property owners. Based on discussions with County staff, we understand that the only way to achieve nullification of the lot line adjustment plat is to file an application.

As shown on the County-approved Land Division Plat attached as Exhibit A, as of 1979, the two involved lots totaling +/- 36.38 acres, were owned by Margaret Chavez. A north-south oriented property line divided westerly Tract 1 from easterly Tract 2.

On or about July 21, 1979, Margaret Chavez (along with Ernest Chavez, Joseph Chavez and John Chavez) conveyed Tract 1 to Jesus (aka Jesse) Chavez by Quitclaim Deed. On or about the same date and method, Margaret Chavez (along with Joseph Chavez, Jesus/Jesse Chavez and John Chavez) conveyed Tract 2 to Jesse's brother Ernest Chavez.

The brothers Chavez, on or about August 30, 2006, entered into a real estate contract to sell Tracts 1 and 2 to Padlock, LLC. On or about April 7, 2007, the Santa Fe County Land Use Administrator approved a lot line adjustment plat, which changed the north-south lot line to an east-west lot line and altered the size of the two tracts. Because the real estate contract had not been paid off, the brothers Chavez retained legal title to the two tracts; however, they did not sign the lot line adjustment plat, which was subsequently recorded. (Exhibit B) Neither of the brothers received notice of the lot line adjustment application prior to its approval, join in or consent to the lot line adjustment. Further, they did not sign the lot line adjustment plat. They learned of the plat

SOMMER. KARNES & ASSOCIATES. LLP

Santa Fe County
September 23, 2014
Page 2 of 2

only when unpaid taxes threatened the titles to their properties.

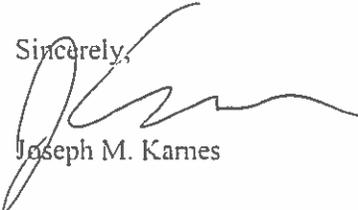
Padlock, LLC subsequently defaulted on the real estate contract and ultimately deeded Tract 1 back to Jesus Chavez and Tract 2 back to Ernest Chavez. (Exhibit C) The brothers Chavez are the current owners of the subject properties. Jesus/Jesse Chavez passed away on January 20, 2013. His spouse, Robin Suellen Chavez, is Jesse/Jesus Chavez' sole beneficiary and has been appointed as the Personal Representative of his estate. Attached as Exhibit D is the Personal Representative's Proof of Authority issued by the Santa Fe County District Court.

Based on the foregoing, on behalf of Ms. Chavez and Ernest Chavez, we submit the attached application and request that the Land Use Administrator or BCC take action to nullify the lot line adjustment plat attached as Exhibit B and authorize re-recording of the 1979 Plat (attached as Exhibit A) with the following explanatory note:

"This Plat, originally recorded on September 10, 1979 in Plat Book 71, page 26 as Document No. 445,771, is being re-recorded to clarify the current boundaries of Tract 1 and Tract 2 as shown hereon. Subsequent to the original recordation of this Plat, a subsequent Lot Line Adjustment Plat was recorded on April 25, 2007 in Plat Book 652, page 45 and Instrument No. 1480106 (the "Defective Plat"). The Defective Plat was recorded without the signatures of the property owners and is therefore void ab initio. By its action of _____, 2014, the _____ approved recordation of this Plat and subject to this note, which documents the current configuration of the property boundaries. The Santa Fe County Land Use Department recognizes the property boundaries of Tract 1 and Tract 2 as the property boundaries of these Tracts, effective as of the date of recordation."

Please let me know if you have questions or need any additional information.

Sincerely,


Joseph M. Karnes

5.7 Vacation of Plats

- 5.7.1 Cause. Any final plat filed in the office of the County Clerk may be vacated or a portion of the final plat may be vacated if:
- the owners of the land proposed to be vacated sign an acknowledged statement, declaring the final plat or a portion of the final plat to be vacated, and the statement is approved by the Board; or
 - the Board finds that a plat was obtained by misrepresentation or fraud and orders a statement of vacation to be prepared by the County.
- 5.7.2 Action. Action shall be taken at a public meeting. In approving the vacation of all or a part of a final plat, the Board shall decide whether the vacation will adversely affect the interests of persons on contiguous land or of persons within the subdivision being vacated. In approving the vacation of all or a portion of a final plat, the Board may require that roads dedicated to the County in the final plat continue to be dedicated to the County.
- 5.7.3 Filing. The approved statement declaring the vacation of a portion or all of a final plat shall be filed in the office of the County Clerk
- 5.7.4 Utilities. The rights of any utility existing before the total or partial vacation of any final plat are not affected by the vacation of a final plat.

5.8 Requirements Prior to Sale, Lease or Other Conveyance

It is unlawful to sell, lease, or otherwise convey land within a subdivision before the following conditions have been met:

- Final plat approval. The final plat shall be approved by the Board and shall be filed with the County Clerk. If a subdivision lies within more than one county, the final plat shall be approved by the Board of each county in which the subdivision is located and shall be filed with the County Clerk of each county in which the subdivision is located.
- Relevant documents. The subdivider shall furnish the Board a sample copy of sales contracts, leases and any other documents that will be used to convey an interest in the subdivided land.
- Permanent markers. All corners of all parcels and blocks within a subdivision shall be permanently marked with metal stakes in the ground and a reference stake placed beside one corner of each parcel.

5.9 Succeeding Subdivisions

Any proposed subdivision may be combined and upgraded for classification purposes by the Board with a previous subdivision if the proposed subdivision includes:

- Part of a previous subdivision that has been created in the preceding seven (7) year period; or
- Any land retained by a subdivider after creating a previous subdivision when the previous subdivision was created in the preceding seven (7) year period.

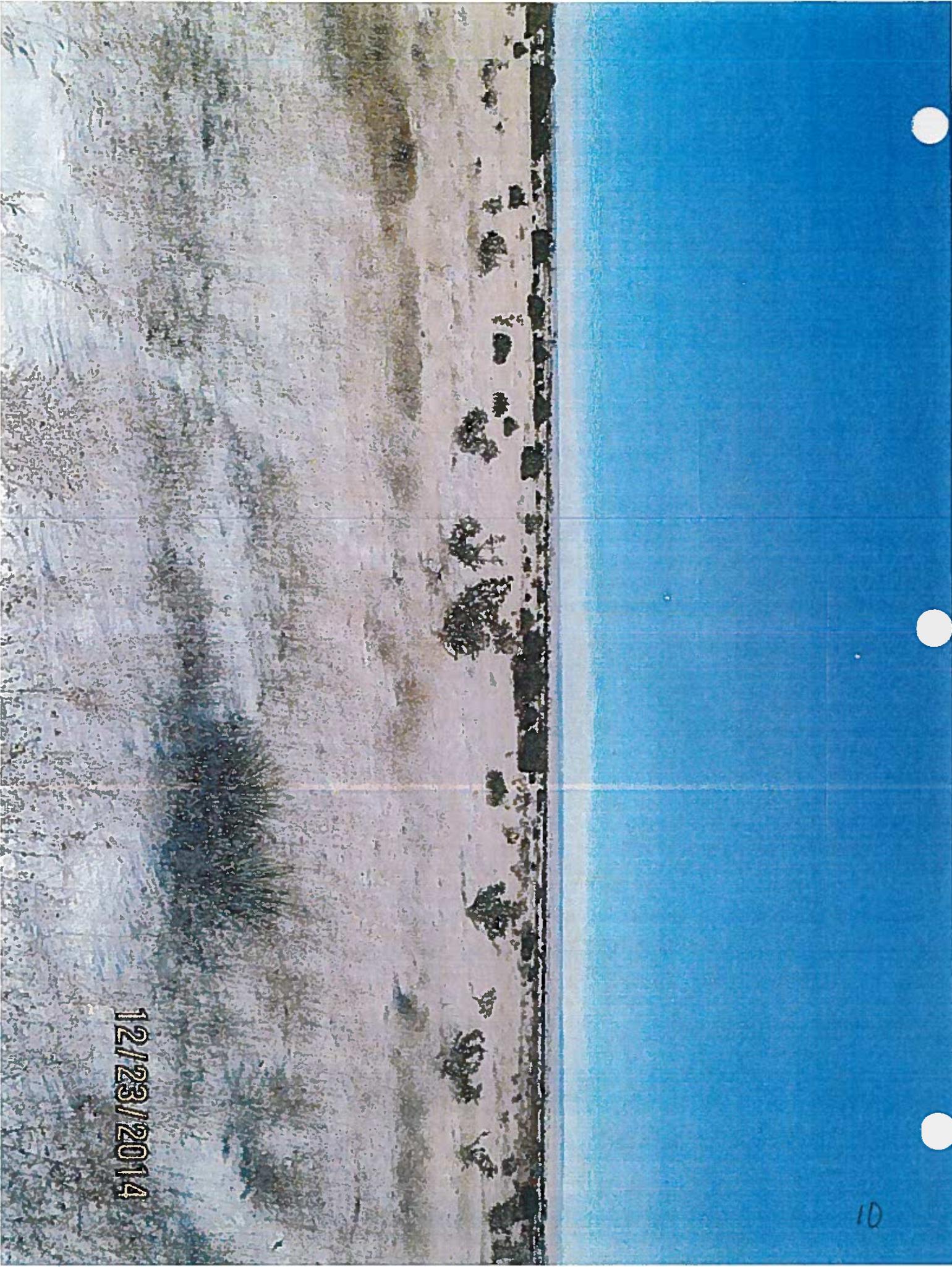
History. Section 5 was updated and revised by Ordinance 1996-8 for the purpose of clarification and to bring this Section into compliance with the NMSA.



12/23/2014

EXHIBIT
3

EXHIBIT
3



12/23/2014



12/23/2014

1979

A tract of land situate in the NW 1/4 of Section 28, Township 11 North, Range 7 East, N.M.P.M., in Santa Fe County, New Mexico,

Thomas Martinez
N.M.P.M. & L.S. NO. 3345

Date June 26, 1979

This land division is with the free consent and in accordance with the desire of the undersigned owner and proprietor of the land.

STATE OF NEW MEXICO
COUNTY OF SANTA FE

On this day of July, 1979, the foregoing instrument was acknowledged before me.

My Commission Expires July 14, 1981

Notary Public

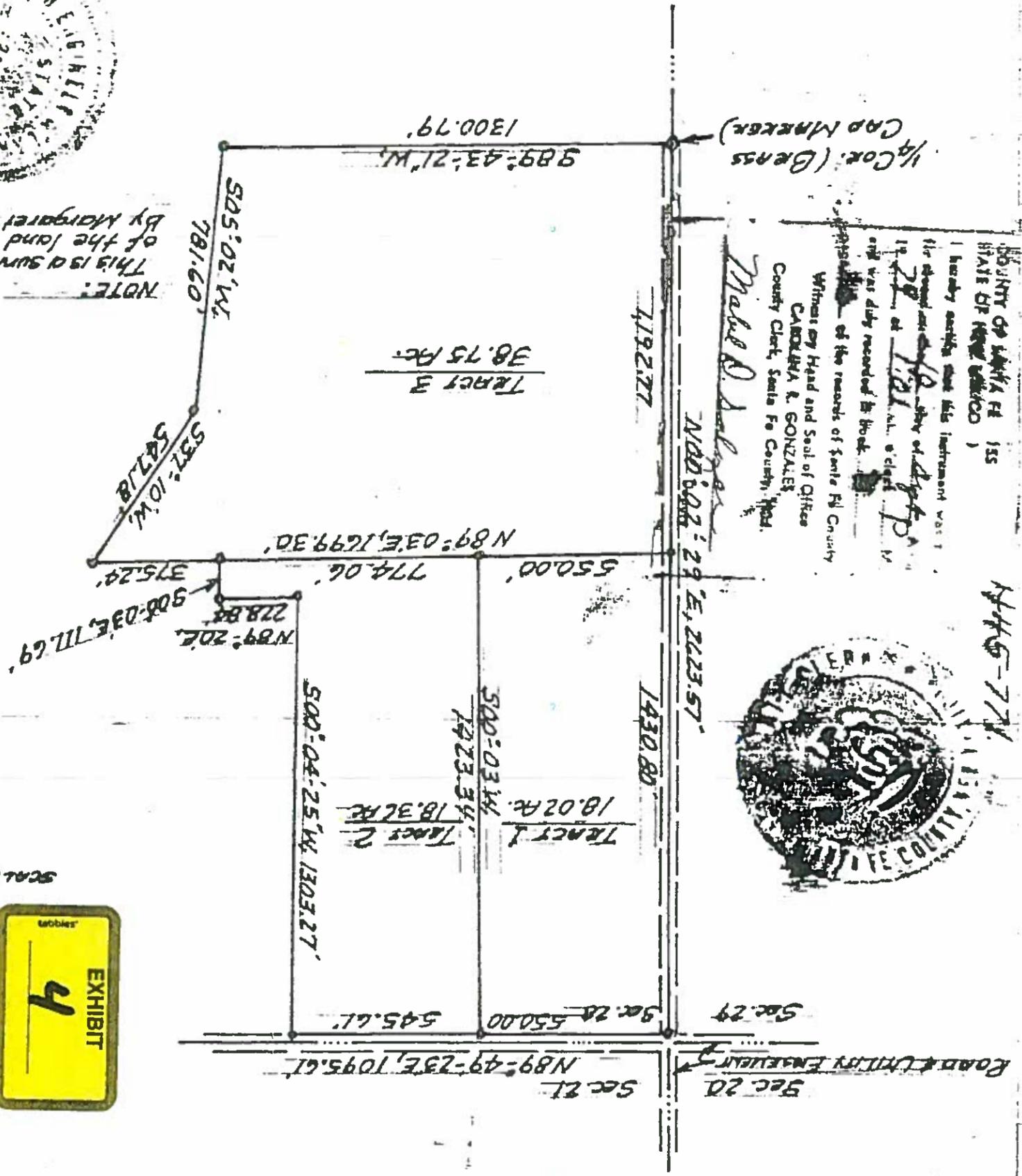


Owner Signature
Margarita Chavez

Date July 21, 1979

LAND DIVISION

M. Chavez



446-771

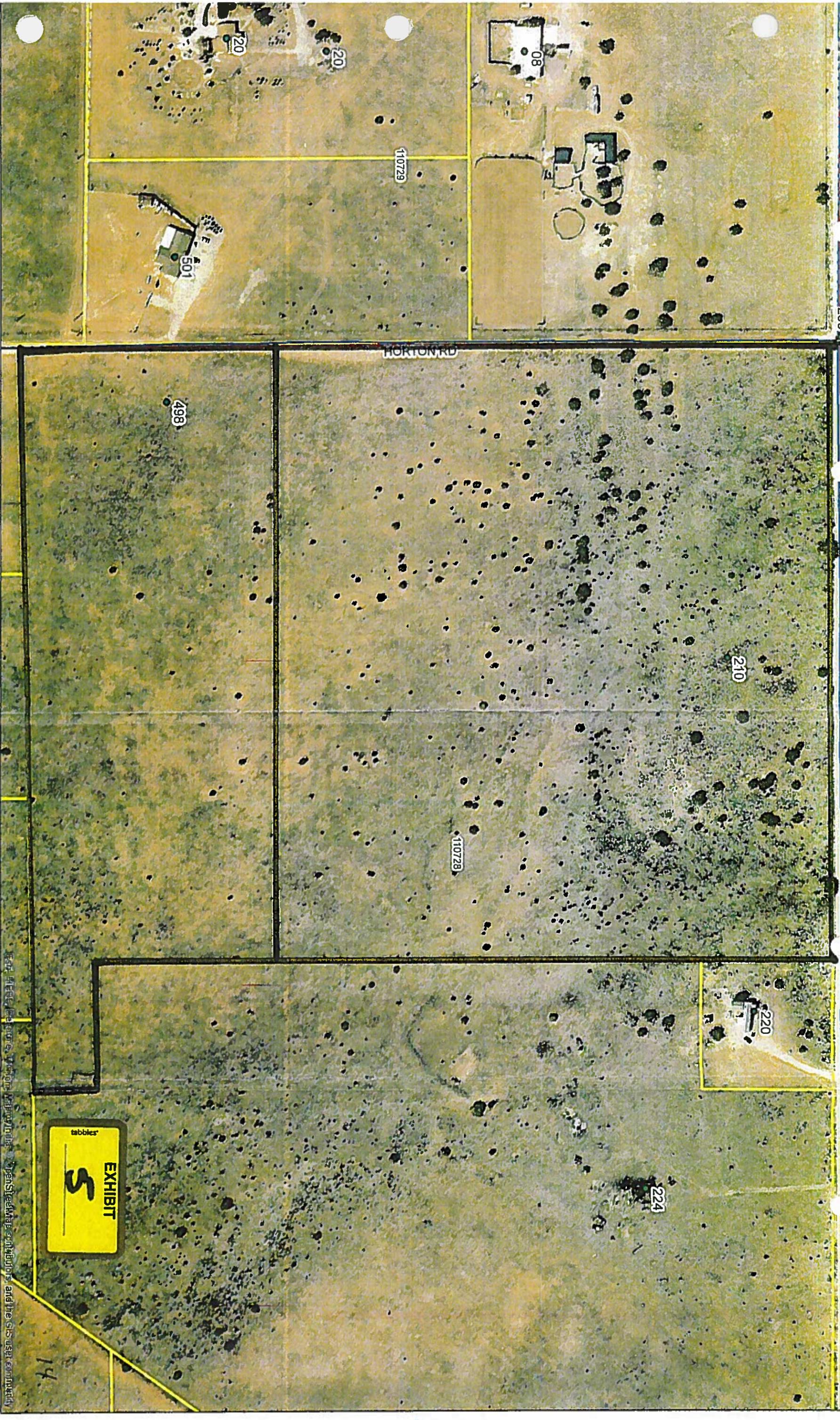


SCALE 1:400'

Exhibit A

15005

ENTRANOSA RD 110720 200 520 208 209 0 110721 ENTRANOSA RD



WARNING
Two (2) foot contour data sets are
NOT SUITABLE FOR ENGINEERING WORK
These data are appropriate for
PLANNING PURPOSES ONLY

NOV 17, 2014



tabbles
EXHIBIT
5

Orthophoto from 2008 Contour Interval 2 Feet
This information is for reference only. Santa Fe County assumes
no liability for errors associated with the use of these data.
Users are solely responsible for confirming data accuracy.

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	12/05/2014		
Project Name	Ernest Chavez		
Project Location	Horton Road and Entranosa Road, Edgewood New Mexico 87015		
Description	Nullification of a lot line	Case Manager	M. Romero
Applicant Name	Ernest Chavez	County Case #	14-5420
Applicant Address	393 County Road 4300 Greenville TX 75401	Fire District	Edgewood
Applicant Phone	505-989-3800 Sommer Karnes Assoc		
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 checked="" type="checkbox"/>
	Wildland <input type="checkbox"/>	Variance <input type="checkbox"/>	Hydrant Acceptance <input type="checkbox"/>
Project Status:	Approved <input checked="" type="checkbox"/>	Approved with Conditions <input type="checkbox"/>	Denial <input 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:

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

- **Fire Access Lanes**

Section 901.4.2 Fire Apparatus Access Roads. (1997 UFC) When required by the Chief, approved signs or other approved notices shall be provided and maintained for fire apparatus access roads to identify such roads and prohibit the obstruction thereof or both.

- **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.



At time of building permit a driveway plan shall be submittal that meets the minimum County standards for fire apparatus access roads within this type of proposed development. Driveway shall be County approved all-weather driving surface of minimum 6" compacted basecourse or equivalent. Minimum gate and driveway width shall be 14' and an unobstructed vertical clearance of 13'6".

- **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.*

All access roadway identification signs leading to the approved development area(s) shall be in place prior to the required fire hydrant acceptance testing. Said signs shall remain in place in visible and viable working order for the duration of the project to facilitate emergency response for the construction phase and beyond.

- **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.*

There are no slopes the exceed 11%.

- **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.*

Permits

As required

Final Status

Recommendation for Final Development Plan approval with the above conditions applied.

Renee Nix, Inspector

Renee Nix
Code Enforcement Official

12-5-14
Date

Through: Chief David Sperling

File: DEV/Ernest Chavez/120514/E

Cy: Buster Patty, Fire Marshal
Caleb Mente, Land Use Applicant
District Chief Edgewood
File



Henry P. Roybal
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: December 30, 2014

TO: Board of County Commissioners

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

VIA: Katherine Miller, County Manager
Penny Ellis-Green, Growth Management Director *PE*
Vicki Lucero, Building & Development Services Manager *VL*
Wayne Dalton, Building & Development Services Supervisor *WD*

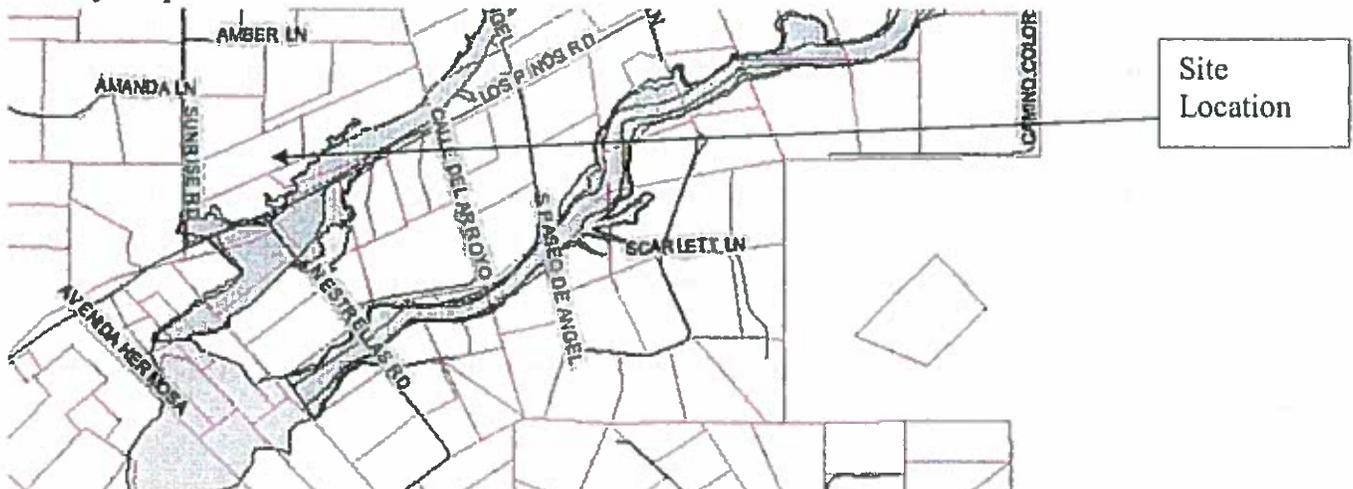
FILE REF: BCC CASE # PCEV 14-5450 Kelly Wilson Vacation of Easement

ISSUE:

Kelly Wilson, Applicant, (Paramount Surveys, Inc.) Paul Rodriguez, Agent, request approval to vacate a platted thirty-eight foot (38') wide private access and utility easement on one lot totaling 2.50 acres. The easement will be relocated on-site.

The property is located at 177B Los Pinos Rd., within Section 28, Township 16 North, Range 8 East, (Commission District 3).

Vicinity Map:



SUMMARY:

The subject property, Lot 1 was created by a Division of Land Plat, recorded on November 28, 1990. The plat was approved by the Extraterritorial Zoning Commission (EZC). The plat identifies a thirty-eight (38') foot wide access and utility easement running along the northern boundaries of lot 1. The Applicant has provided proof of ownership of the property by providing a Warranty Deed which was recorded in the County Clerk's Office July 9, 1991 Book 737 Page 515.

There is currently a residence and an accessory structure on the subject property. The residence was permitted in 1991, by the previous owner (Permit# 91-568), and was approved by Santa Fe County. The Applicant claims during the construction of the residence, the residence was placed on a private access and utility easement, causing the easement to run through a portion of the residence. The subject easement provides access to Lot 2. The Applicant wishes to vacate the thirty-eight foot (38') wide private access and utility easement that runs east to west on the north end of the property and relocate the easement to the middle of the property which will be located at the southern portion of the property running east to the property line.

The Applicant claims in 1991, when she purchased the land/home package that the contractor (Who also owned Lot 3) had placed the home into the easement which provided access to Lot 2. During that time the Applicant hired an Attorney and with the Applicants Title Company, drafted and relocated the easement from the north side of the property to the south side entrance on Lot 3, which was owned by the contractor. The easement vacation and relocation was done by deed and not taken forward to the Extraterritorial Zoning Commission, which was the approval body at the time. The Applicant has provided documentation of the Grant of Easement which provides signatures from all adjoining property owners that would be affected by the vacation and relocation of the private access and utility easement as well as a signature from PNM. This document was recorded with the County on February 22, 1993.

The Applicant has provided correspondence from PNM, NM Gas Company and Century Link regarding the proposed vacation and relocation of the thirty-eight foot (38') wide private utility easement (Refer to Exhibit 8). All utility companies have consented to the vacation and re-location of the utility easement.

Sufficient noticing was provided. Notice was sent to the New Mexican, which was published on December 23, 2014. Certified mail receipts (dated December 18, 2014) and certification of posting acknowledging that the public notice has been posted for 21 days on the property.

Article V, § 5.7.1 (Cause) states any Final Plat filed in the office of the County Clerk may be vacated or a portion of the Final Plat if:

- a) The owners of the land proposed to be vacated sign an acknowledgment statement, declaring the Final Plat or a portion of the Final Plat to be vacated, and the statement is approved by the Board; or
- b) The Board finds that a plat was obtained by misrepresentation or fraud and orders a statement of vacation to be prepared by the County.

The Applicant claims that they are the only ones affected by this easement vacation and relocation. Therefore, per Article V, § 5.7.7 a. the Applicant is requesting approval to vacate the thirty-eight foot (38') wide private access and utility easement and relocate it elsewhere on their property.

Article V, § 5.7.2 (Action) states, "Action shall be taken at a public meeting. In approving the vacation of all or a part of a Final Plat, the Board shall decide whether the vacation will adversely affect the interests of persons on contiguous land or of persons within the subdivision being vacated. In approving the vacation of all or a portion of a Final Plat, the Board may require that roads dedicated to the County in the Final Plat continue to be dedicated to the County."

Article V, § 5.7.3 (Filing) states, "The approved statement declaring the vacation of a portion or all of a Final Plat shall be filed in the office of the County Clerk."

Article V, § 5.7.4 (Utilities) states, "The rights of any utility existing before the total or partial vacation of any Final Plat are not affected by the vacation of a Final Plat."

This Application was submitted on October 7, 2014.

Growth Management staff have reviewed this Application for compliance with pertinent Code requirements and finds the project is in compliance with County criteria for this type of request if the request is modified so that the easement continues onto the adjoining property as it is currently platted.

APPROVAL SOUGHT: Approval to vacate and relocate a platted thirty-eight foot (38') wide private access and utility easement on one lot totaling 2.50 acres.

GROWTH MANAGEMENT AREA: SDA 2

HYDROLOGIC ZONE: Traditional Community of La Cienega, minimum lot size per Code is .75 acres per dwelling unit.

FIRE PROTECTION: La Cienega Fire District.

WATER SUPPLY: Private Well

LIQUID WASTE: Conventional Septic System

VARIANCES: None

AGENCY REVIEW:

<u>Agency</u>	<u>Recommendation</u>
Fire Prevention Division	Approved with Conditions
Public Works	No Comment

STAFF RECOMMENDATION: Approval to vacate and relocate a portion of the platted thirty-eight foot (38') wide private access and utility easement on one lot totaling 2.50 acres; subject to the following conditions:

1. The Applicant shall file the portion of the Final Plat (Lot 1) affected by the vacation and relocation of easement with the County Clerk's Office (As per Article V § 5.7.3).

EXHIBITS:

1. Letter of request
2. Article V, § 5.7 (Vacations of Plats)
3. Site Photographs
4. Site Plan/Survey Plat
5. Aerial of Site and Surrounding Area
6. Grant of Easement
7. Reviewing Agency Letters
8. Letters of Support

SOMMER, KARNES & ASSOCIATES, LLP

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Santa Fe, New Mexico 87504-2476

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Mychal L. Delgado, Certified Paralegal
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James R. Hawley, Attorney at Law
jrh@sommer-assoc.com
Of Counsel
Licensed in New Mexico and California

December 17, 2014

Michael Romero
Case Planner
Santa Fe County
102 Grant Avenue
Santa Fe, NM 87501

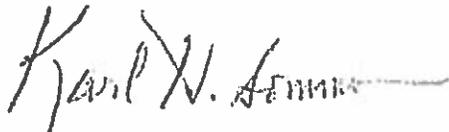
Re: Revised Letter of Kelly Wilson
177B Los Pinos Road, Santa Fe, New Mexico

Dear Mr. Romero:

This letter amends the application letter dated October 7, 2014, from Kelly Wilson, a copy of which is attached hereto. The original application and letter requested plat amendments that would vacate easements on her property located at 177B Los Pinos Rd, and relocate of certain easements on the adjoining lands. This revised letter clarifies that the application is simply to vacate the easement is only for the easement along her northern boundary on her property, as shown on the attached draft plat. The application is hereby revised accordingly.

Please confirm that your office is satisfied with this revision to our clients "letter of intent" requirement.

Sincerely,



Karl H. Sommer



October 7, 2014

Santa Fe County
Board of Commissioners
Land Use Department
102 Grant Avenue
Santa Fe, New Mexico 87505

SUBJECT: Proposed Relocation of Easement

Dear Board of Commissioners

The intent of this letter is to request the relocation of a Private access and utility easement located on my land that lies within Santa Fe County.

Property is located: County Road 54, 177B Los Pinos Road, Santa Fe, New Mexico 87507

Legal Description: Lot 1, Tract D2D1, Section 28, Township 16, Range 8,

UPC# 1-045-092-432-427

Original Easement is a 38 foot wide access and utility lying within Lot 1 and Lot 2 Tract D-2D1, Recorded on Plat book 217, Page 035.

Relocated Easement is a 38 foot wide access and utility lying within Lot 3 of Tract D-2D2, Recorded on Plat book 899, Page 239.

I purchased this land/home package in 1991 from SatNam Singh Khalsa. In 1992 I was informed that Mr. Khalsa had placed my home encroaching on the north side easement which provided access to Lot 2 Tract D2D1.

At this point I hired Mr. Bill Keleher attorney with Modrall Law Firm. Through him and my title company, First American Surety we drafted and relocated this easement from the north side of my property to a south side entrance on Lot 3, also owned by Mr. Khalsa. All documents were signed and notarized by all parties affected and recorded with county on February 22, 1993.

Presently I am applying for a small lot family transfer and have been informed that this relocation of easement was done by deed and did not go through the Board of Commissioners for approval. I am not sure my lawyer/title company knew this had to be done. I certainly did not know and feel like we did everything in good faith and by the rules.

Your consideration for approval is greatly appreciated so that I may move forward with my lot split.

Attached are all documents you may need for review.

If you have any questions, I may be reached at 505-690-5795 or 505-471-6611.

Sincerely,

A handwritten signature in cursive script that reads "Kelly D. Wilson".

Kelly D. Wilson

5.7 Vacation of Plats

- 5.7.1 Cause. Any final plat filed in the office of the County Clerk may be vacated or a portion of the final plat may be vacated if:
- the owners of the land proposed to be vacated sign an acknowledged statement, declaring the final plat or a portion of the final plat to be vacated, and the statement is approved by the Board; or
 - the Board finds that a plat was obtained by misrepresentation or fraud and orders a statement of vacation to be prepared by the County.
- 5.7.2 Action. Action shall be taken at a public meeting. In approving the vacation of all or a part of a final plat, the Board shall decide whether the vacation will adversely affect the interests of persons on contiguous land or of persons within the subdivision being vacated. In approving the vacation of all or a portion of a final plat, the Board may require that roads dedicated to the County in the final plat continue to be dedicated to the County.
- 5.7.3 Filing. The approved statement declaring the vacation of a portion or all of a final plat shall be filed in the office of the County Clerk
- 5.7.4 Utilities. The rights of any utility existing before the total or partial vacation of any final plat are not affected by the vacation of a final plat.

5.8 Requirements Prior to Sale, Lease or Other Conveyance

It is unlawful to sell, lease, or otherwise convey land within a subdivision before the following conditions have been met:

- Final plat approval. The final plat shall be approved by the Board and shall be filed with the County Clerk. If a subdivision lies within more than one county, the final plat shall be approved by the Board of each county in which the subdivision is located and shall be filed with the County Clerk of each county in which the subdivision is located.
- Relevant documents. The subdivider shall furnish the Board a sample copy of sales contracts, leases and any other documents that will be used to convey an interest in the subdivided land.
- Permanent markers. All corners of all parcels and blocks within a subdivision shall be permanently marked with metal stakes in the ground and a reference stake placed beside one corner of each parcel.

5.9 Succeeding Subdivisions

Any proposed subdivision may be combined and upgraded for classification purposes by the Board with a previous subdivision if the proposed subdivision includes:

- Part of a previous subdivision that has been created in the preceding seven (7) year period; or
- Any land retained by a subdivider after creating a previous subdivision when the previous subdivision was created in the preceding seven (7) year period.

History. Section 5 was updated and revised by Ordinance 1996-8 for the purpose of clarification and to bring this Section into compliance with the NMSA.

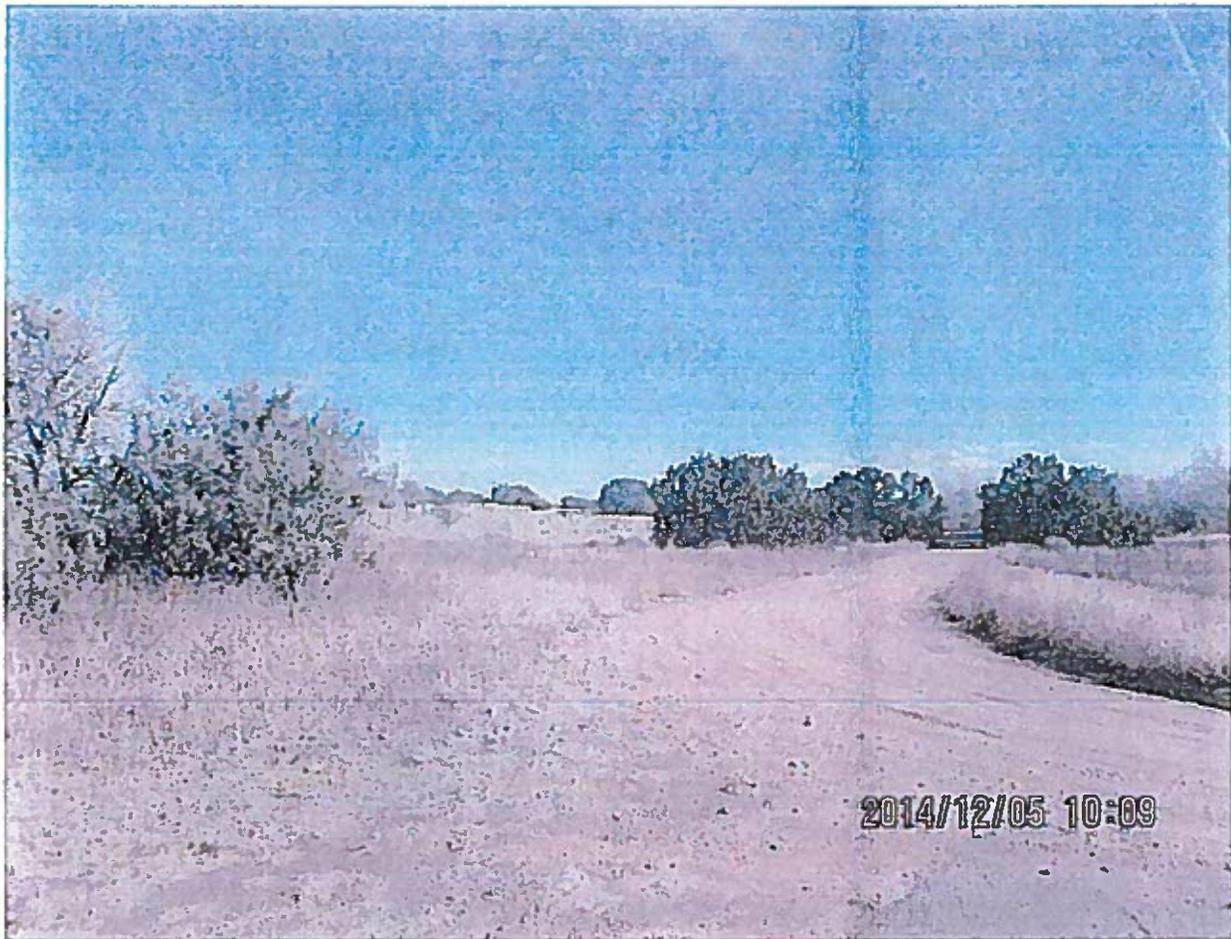




EXHIBIT
3











DESCRIPTIONS

A PARCEL OF LAND LYING WITHIN SECTION 28, T16E, R8E, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT FROM WHICH A 1984 ALUMINUM CAP MAKING THE QUARTER CORNER COMMON TO SECTIONS 21 & 22 OF THE ABOVE REFERENCED TOWNSHIP AND RANGE BEARS

LOT 1
 N63°37'02"E, 195.21';
 THENCE N05°19'00"E, 3835.99'; DISTANT
 FROM SAID POINT OF BEGINNING;
 THENCE S85°31'02"W, 893.95';
 THENCE S65°24'02"W, 218.93';
 THENCE N00°43'25"E, 176.60';
 THENCE S66°25'38"E, 450.00';
 THENCE S45°00'00"E, 110.00';
 THENCE N70°01'49"E, 643.07';

LOT 2
 N05°19'00"E, 3835.99'; DISTANT
 FROM SAID POINT OF BEGINNING;
 THENCE S70°01'49"W, 643.07';
 THENCE S66°25'38"E, 450.00';
 THENCE N00°43'25"E, 176.60';
 THENCE S66°25'38"E, 450.00';
 THENCE S45°00'00"E, 110.00';

LOT 3
 N65°25'38"E, 450.00'; DISTANT
 FROM SAID POINT OF BEGINNING;
 THENCE S70°01'49"W, 643.07';
 THENCE S66°25'38"E, 450.00';
 THENCE N00°43'25"E, 176.60';
 THENCE S66°25'38"E, 450.00';
 THENCE S45°00'00"E, 110.00';

LOT 4
 N00°43'25"E, 176.60'; DISTANT
 FROM SAID POINT OF BEGINNING;
 THENCE S66°25'38"E, 450.00';
 THENCE S45°00'00"E, 110.00';
 THENCE N70°01'49"E, 643.07';
 THENCE S66°25'38"E, 450.00';

VICINITY MAP

TO SAID POINT AND PLACE OF BEGINNING CONTAINING 2.50 ACRES MORE OR LESS AND ALL AS SHOWN HEREON.

DEDICATION & AFFIDAVIT

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED ENGINEER HAS CAUSED THE SURVEY AND PLANNING TO BE MADE AND IN ACCORDANCE WITH THE WISHES AND DESIRES OF SAID OWNER(S). THIS DIVISION COMPLETES MAPS ACROSS AND LIES WITHIN THE PLANNING AND PLANNING JURISDICTION OF THE CITY AND COUNTY OF SANTA FE, NEW MEXICO.

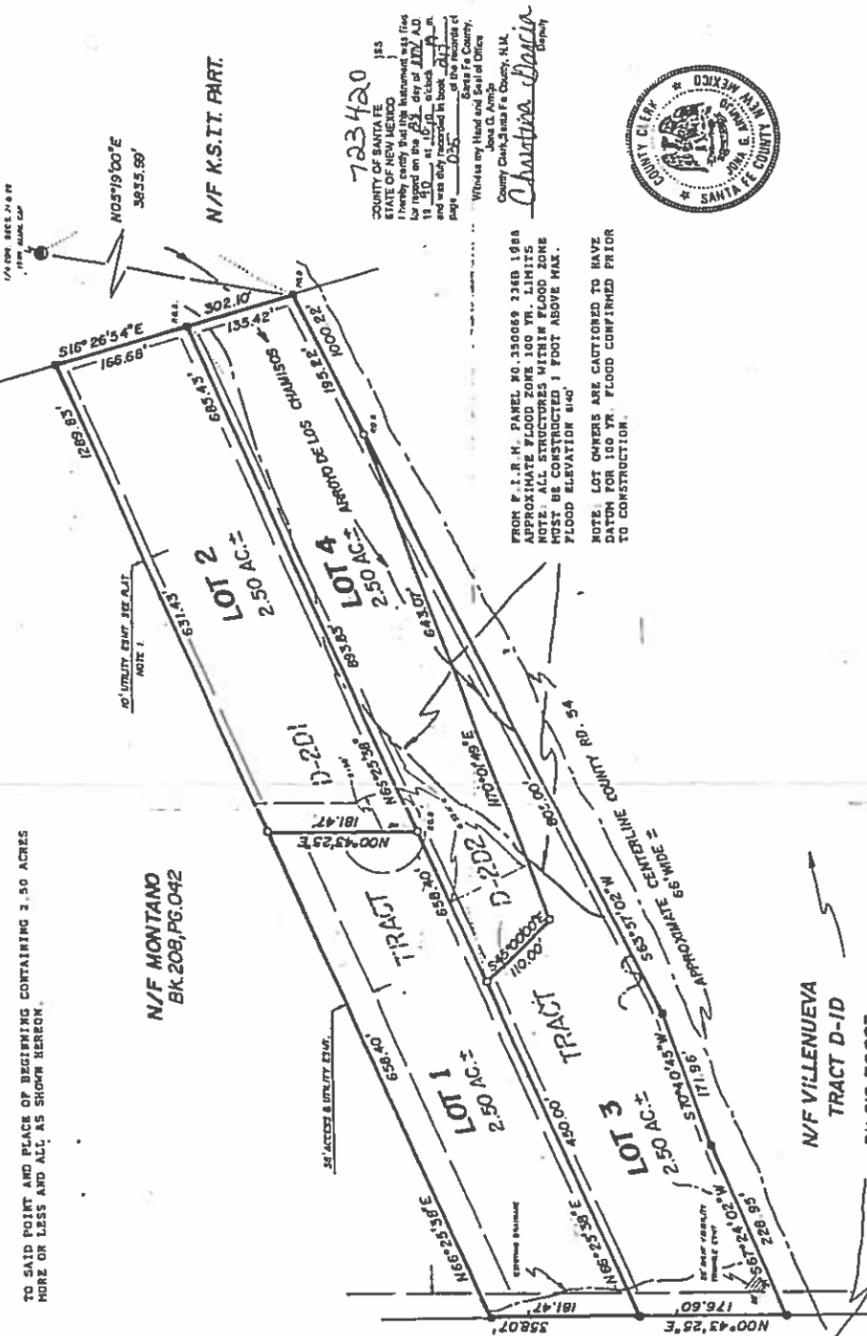
DATE 7-20-90

STATE OF NEW MEXICO SS
 COUNTY OF SANTA FE

THE FOREGOING INSTRUMENT WAS SHOWN, ACKNOWLEDGED AND SUBSCRIBED BEFORE ME BY Sat Nam Singh Khalsa
 THIS 20th DAY OF September, 1990. Richard A. Chatroop
 MY COMMISSION EXPIRES 9-28-91 NOTARY PUBLIC

LEGEND & NOTES:

- DEMOTES POINT FOUND AS INDICATED DAWSON MAP
 - DEMOTES POINT SET THIS SURVEY
 - DEMOTES U.S.G.L.O.S. BRASS CAP
 - DEMOTES POINT CALCULATED
 - DEMOTES UTILITY POLE
 - DEMOTES OVERHEAD LINES
 - DEMOTES FENCELINE
1. BASIS OF BEARING IS FROM "DIVISION PLAT OF TRACT D-2" BY GARY E. DANSON MAP 7014, DATED 05/21/90, AND HAVING FILE #15931. AND BEING FILED IN THE OFFICE OF THE SANTA FE COUNTY CLERK IN PLAT BK. 211, PG. 807, ON DATE 11/11/88.
 2. THIS PLAT IS SUBJECT TO ANY EASEMENTS, RESTRICTIONS AND COVENANTS OF RECORD.
 3. MAINTENANCE OF PRIVATE ACCESS EASEMENTS TO BE RESPONSIBILITY OF TRACT OWNER.
 4. FLOOD PLAIN AS SHOWN ON F.I.R.M. PANEL #240069 01368 & 2288 DATED 11/01/88.
 5. WATER WELL WITHDRAWAL ON THESE LOTS IS RESTRICTED TO COVENANTS FILED IN THE OFFICE OF THE COUNTY CLERK RECORDED IN BOOK 700 PAGE 921-925
 6. DOCUMENT NO. 723-419
 7. ADDITIONAL SETBACKS CREATED BY FUTURE DEVELOPMENT WILL BE RETAINED ON SITE.
 8. PRIOR TO THE DEVELOPMENT OF THE LOTS THE FOLLOWING MUST BE SUBMITTED TO THE CITY ENGINEER FOR REVIEW AND APPROVAL: (A) EROSION CONTROL PLAN PER 14-90.4 SF. CITY CODE 1987. (B) EROSION CONTROL PLAN PER 14-90.6 SF. CITY CODE 1987. (C) GRADING PLAN PER 14-90.5 SF. CITY CODE 1987. (D) TOPOGRAPHIC PLAN PER 14-90.3 SF. CITY CODE 1987.
 9. THIS PROPERTY LIES WITHIN THE AIRPORT



SURVEYORS CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAN AND THE NOTES HEREON ARE AN ACCURATE DELINEATION OF A FIELD SURVEY CONDUCTED BY ME OR UNDER MY SUPERVISION AND THAT THE SAME ARE CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND MEET THE STANDARDS FOR PROFESSIONAL LAND SURVEYORS PRACTICING IN NEW MEXICO.

Richard A. Chatroop 7/19/90
 RICHARD A. CHATROOP, R.N.P.L.S.#11011

STATE OF NEW MEXICO SS
 COUNTY OF SANTA FE

THE FOREGOING INSTRUMENT WAS SHOWN, ACKNOWLEDGED AND SUBSCRIBED BEFORE ME BY Richard Chatroop
 THIS 20 DAY OF Sept, 1990
 MY COMMISSION EXPIRES 3-19-92 NOTARY PUBLIC

APPROVALS

REVIEWED BY David J. Martinez 11/21/90
 CITY SUBDIVISION ENGINEER DATE

REVIEWED BY Tommy Porter 11-26-90
 CITY PUBLIC WORKS DIRECTOR DATE

REVIEWED BY Tommy Porter 11-27-90
 CITY PLANNER DATE

UTILITIES

SANGRE DE CRISTO WATER CO. Jack B. Bick DATE 11-29-90

D.S. WEST COMMUNICATIONS Ed J. ... DATE 10/10/90

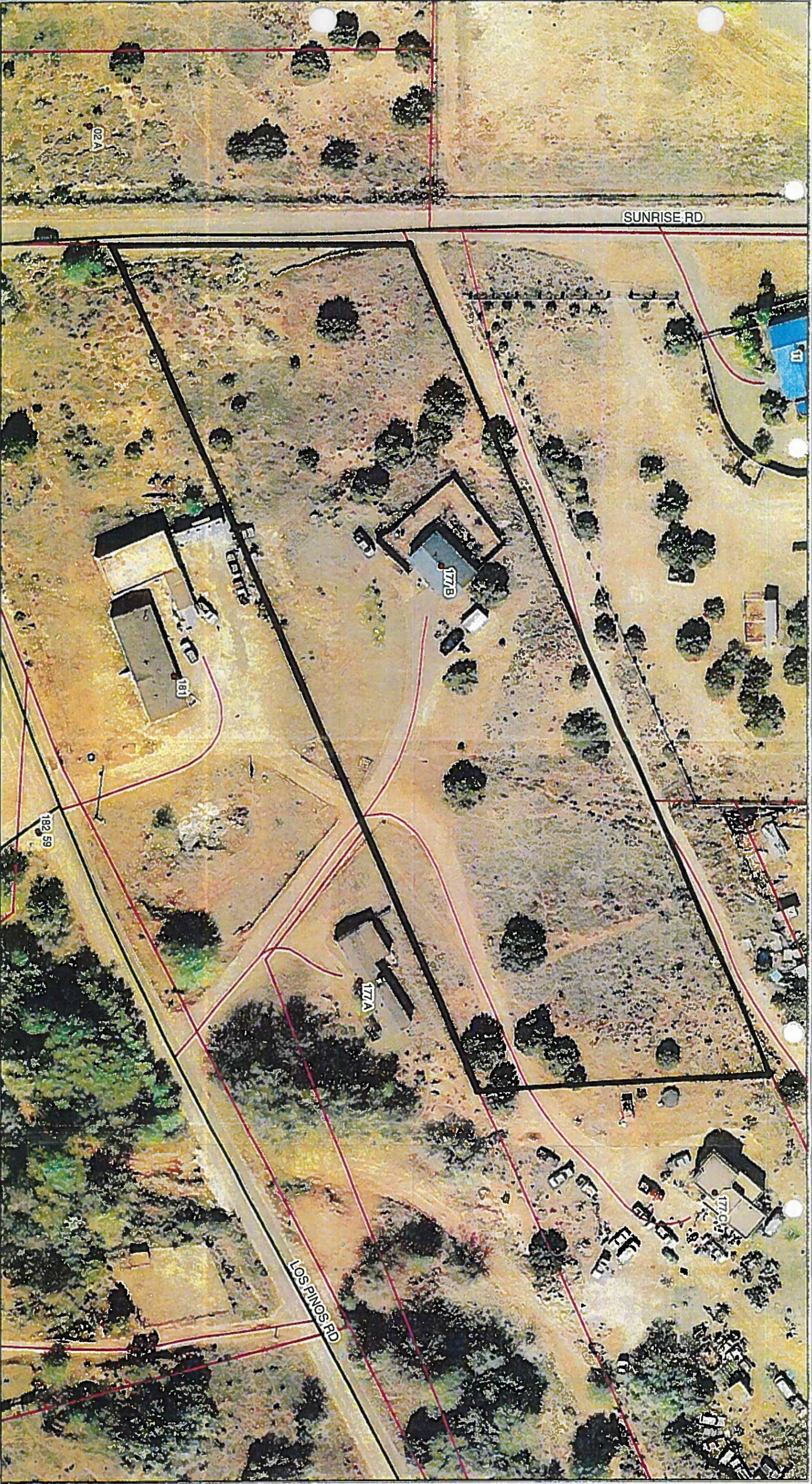
PUBLIC SERVICE CO. OF N.M. Ed ... DATE 10-1-90

GAS CO. OF N.M. Robert ... DATE 10-8-90



217035

15



Legend

-  ROADS
-  DRIVEWAYS
-  PARCELS

1:780

1 inch represents 65 feet



2008 Imagery
2 FOOT CONTOURS

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

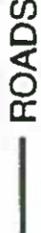


October 8, 2014

1b



Legend

-  ROADS
-  DRIVEWAYS
-  PARCELS



2008 Imagery
2 FOOT CONTOURS

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



October 8, 2014

#9603 CW

GRANT OF EASEMENT

A 38 FOOT WIDE ACCESS AND UTILITY EASEMENT LYING WITHIN LOT 3 OF TRACT D-2D2 AS FILED IN BK. 217, PG. 036 IN THE OFFICE OF THE SANTA FE COUNTY CLERK AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

899239

COMMENCING AT A POINT ON THE NORTHERN BOUNDARY OF LOT THREE AS DESCRIBED ABOVE SAID POINT BEING THE NORTHEAST CORNER OF SAID EASEMENT THENCE ALONG THE EASTERN EDGE OF THE HEREON DESCRIBED EASEMENT S45°00'00"E, 182.01' TO THE POINT OF TERMINATION ON THE NORTHERN EDGE OF COUNTY ROAD 54.

THIS EASEMENT IS 38 FEET IN WIDTH LYING WEST OF THE ABOVE DESCRIBED EASTERN EDGE AND IS INTENDED TO PROVIDE A CONTINUOUS STRIP OF LAND THROUGH LOT 3 OF TRACT D-2D2 AS REFERENCED ABOVE AND AS MORE FULLY SHOWN ON THE ATTACHED EXHIBIT "A"

ALSO:

A 38 FOOT WIDE ACCESS AND UTILITY EASEMENT LYING WITHIN LOT 1 OF TRACT D-2D1 AS FILED IN BK. 217, PG. 035 IN THE OFFICE OF THE SANTA FE COUNTY CLERK AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE SOUTHERN BOUNDARY OF LOT ONE AS DESCRIBED ABOVE SAID POINT BEING THE SOUTHEAST CORNER OF SAID LOT THENCE ALONG THE SOUTHERN EDGE OF THE HEREON DESCRIBED EASEMENT S66°25'38"W TO THE POINT OF TERMINATION ON THE WESTERN EDGE OF THE EASEMENT LYING WITHIN LOT 3 OF TRACT D-2D2 AS DESCRIBED ABOVE.

THIS EASEMENT IS 38 FEET IN WIDTH LYING NORTH OF THE ABOVE DESCRIBED SOUTHERN EDGE AND AS MORE FULLY SHOWN ON THE ATTACHED EXHIBIT "A".

VACATION OF EASEMENT

A 38 FOOT WIDE ACCESS AND UTILITY EASEMENT LYING WITHIN LOT 1 AND LOT 2 OF TRACT D-2D1 AS FILED IN BK. 217, PG. 035 IN THE OFFICE OF THE SANTA FE COUNTY CLERK AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF THE ABOVE DESCRIBED EASEMENT LYING ALONG THE NORTHERN BOUNDARY OF LOT 1 AND ALL OF THE ABOVE DESCRIBED EASEMENT LYING ALONG THE WESTERN BOUNDARY OF LOT 2 UP TO BUT NOT INCLUDING THE 50' RADIUS CUL-DE-SAC.

THIS EASEMENT TO BE VACATED IS 38 FEET IN WIDTH LYING WITHIN LOTS 1 AND 2 AS DESCRIBED ABOVE AND AS MORE FULLY SHOWN ON THE ATTACHED EXHIBIT "B".

Daniel L. Romero
DANIEL L. ROMERO (Tract D-2D1) Lot 2

Georgia J. Romero
GEORGIA J. ROMERO (Tract D-2D1) Lot 2

Kelly Donnan Wilson
KELLY DONNAN WILSON (Tract D-2D1-Lot 1)

Satnam Singh Khalsa
SATNAM SINGH KHALSA (Tract D-2D1 Lots 3 and 4)

George Barsuaskas
GEORGE BARSUASKAS
Public Service Company of New Mexico



Exhibit "A"
SURVEYOR'S INSPECTION REPORT

TO TITLE CO.: American Surety Title
 TO UNDERWRITER: First American Title Insurance Co. **899241**
 TO LENDER: _____

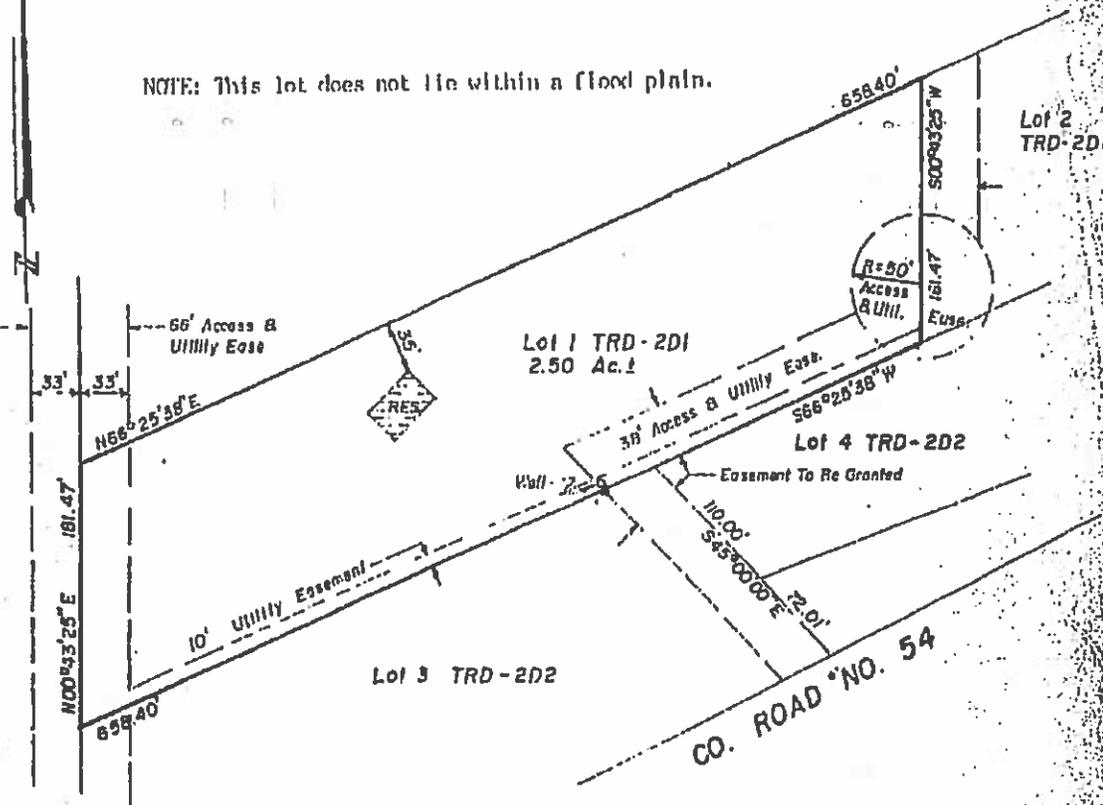
THIS IS TO CERTIFY, THAT ON Feb. 15, 1993, I MADE AN ACCURATE INSPECTION OF THE
 PREMISES SITUATED AT Rural, Santa Fe COUNTY, NEW MEXICO
 BRIEFLY DESCRIBED AS: County Road No. 54
address, if applicable

PLAT REFERENCE: Bearings, distances and/or curve data are taken from the following
 plat (include filing information if plat is filed.).

Lot 1, tract D21, as shown plat entitled "Division Plat of Tract D-2D", by Richard
Chartroup dated September 20, 1990 and recorded November 28, 1991 in the Office of
the County Clerk, in Plat Book 217, page 33.

(NOTE: the error of closure is one foot of error for every Infinite feet
 along the perimeter of the legal description provided.
 Encumbrances shown thereon are as listed in Title Commitment No. 9603
 provided by Title Company. "FOR KELLY DONFAN WILSON & DONALD R. WILSON & EDITH JEAN WILSON"

SCALE 1" = 100'



This report is not to be relied on for the establishment of fences, buildings, or
 other future improvements.

Improvement location is based on previous property surveys. No monuments were set. This
 tract is subject to all easements, restrictions and reservations of record which pertain.

20

I FURTHER CERTIFY as to the existence of the following at the time of my last inspection:

1. Evidence of rights-of-way, old highways, or abandoned roads, lanes, trails or driveways, sewer drains, water, gas or oil pipe lines on or crossing said premises (show location, if none visible so indicate):

As shown on page 1

2. Springs, streams, rivers, ponds, or lakes located, bordering on or through said premises:

None

3. Evidence of cemeteries or family burial grounds located on said premises (show location):

None Visible

4. Overhead utility poles, anchors, pedestals, wires or lines overhanging or crossing said premises and serving other properties (show location):

Yes. On easements as shown on page 1

5. Joint driveways or walkways, joint garages, party walls or rights of support, steps or roots used in common or joint garages:

Yes as shown on page 1

6. Encroachments, if the buildings, projections or curbs therefor, or signs affixed thereto, fences or other indications of occupancy appear to encroach upon or overhang adjoining property, or the like appear to encroach upon or overhang inspected premises, specify all such (show location):

None

7. Specific physical evidence of boundary lines on all sides:

Some property corners found

8. Is the property improved? (if structure appears to encroach or appears violate set back lines, show approximate distances):

Yes

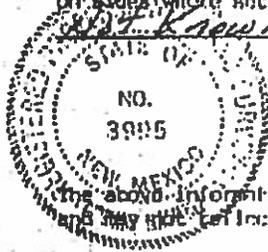
9. Indications of recent building construction, alterations or repairs:

No Approximate % complete, 100%

10. Are the abutting streets or roads publicly maintained? Not Known

11. If subject to restrictive covenants as provided by Title Company or on recorded plat (such as building set back lines), do the improvements comply with such? If structure does not comply, then approximate distance of structure from lot line or lines where set back is violated must be shown.

Not Known



Raymond Martinez
Surveyor

LMIS No. 3225

The above information is based on boundary information taken from a previous survey and may not reflect that which may be disclosed by a boundary survey.

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Hollan
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

Santa Fe County Fire Department Fire Prevention Division

Official Development Review

Date	12/03/2014		
Project Name	Kelly Wilson		
Project Location	177B Los Pinos Road, Santa Fe, New Mexico 87507		
Description	Re-location of easement	Case Manager	Mike Romero
Applicant Name	Kelly Wilson	County Case #	14-5450
Applicant Address	PO Box 22342 Santa Fe, New Mexico 87502	Fire District	La Cienega
Applicant Phone	505-690-5795		
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 checked="" type="checkbox"/>
	Wildland <input checked="" type="checkbox"/>	Variance <input type="checkbox"/>	Hydrant Acceptance <input type="checkbox"/>
Project Status:	Approved <input type="checkbox"/>	Approved with Conditions <input checked="" type="checkbox"/>	Denial <input 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:

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

- **Fire Access Lanes**

Section 901.4.2 Fire Apparatus Access Roads. (1997 UFC) When required by the Chief, approved signs or other approved notices shall be provided and maintained for fire apparatus access roads to identify such roads and prohibit the obstruction thereof or both.

- **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 new easement is acceptable to Santa Fe County Fire Department. The roadway leading into lots 1A, 1B, 2 and 4 shall be 20' wide all-weather driving surface. The newly planned driveway for lot 1B shall meet the minimum County standards for fire apparatus access roads within this type of proposed development

All driveways and roadway shall be County approved all-weather driving surface of minimum 6" compacted basecourse or equivalent. Minimum gate width shall be 14' and an unobstructed vertical clearance of 13'6". Minimum roadway serving 2 or more lots shall be 20' wide all-weather driving surface of minimum 6" compacted basecourse or equivalent.

- **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.*

All access roadway identification signs leading to the approved development area(s) shall be in place prior to the required fire hydrant acceptance testing. Said signs shall remain in place in visible and viable working order for the duration of the project to facilitate emergency response for the construction phase and beyond.

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.*

There are no slopes the exceed 11%.

- **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.

Fire Protection Systems

- **Automatic Fire Protection/Suppression**

This office highly recommends the installation of an automatic fire suppression system as per 1997 Uniform Fire Code, Article 10 Section 1003.2.1 and the Building Code as adopted by the State of New

Mexico and/or County of Santa Fe. Required automatic fire suppression systems shall be in accordance with NFPA 13 and 13D Standard for automatic fire suppression systems. It is recommended that the homeowner contact their insurance carrier to find their minimum requirements.

- **Fire Alarm/Notification Systems**

Automatic Fire Protection Alarm systems are highly recommended per 1997 Uniform Fire and Building Codes as adopted by the State of New Mexico and/or the County of Santa Fe. Required Fire Alarm systems shall be in accordance with NFPA 72, National Fire Alarm Code for given type of structure and/or occupancy use. Said requirements will be applied as necessary as more project information becomes available to this office during the following approval process.

- **Fire Extinguishers**

Article 10, Section 1002.1 General (1997 UFC) *Portable fire extinguishers shall be installed in occupancies and locations as set forth in this code and as required by the chief. Portable fire extinguishers shall be in accordance with UFC Standard 10-1.*

Portable fire extinguishers are highly recommended to be installed in occupancies and locations as set forth in the 1997 Uniform Fire Code. Portable fire extinguishers shall be in accordance with UFC Standard 10-1.

- **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.

Urban-Wildland Interface

SFC Ordinance 2001-11, Urban Wildland Interface Code

This development's location is rated within a "Moderate Wildland-Urban Hazard Area" and shall comply with all applicable regulations within the SFC Ordinance 2001-11 / EZA 2001-04 as applicable for the Urban Wildland Interface Code governing such areas.

Building Materials

Buildings and structures located within urban wildland interface areas, not including accessory structures, shall be constructed in accordance with the Fire Code, the Building Code and the Urban Wildland Interface Code.

Location/Addressing/Access

Per SFC 2001-11/EZA 2001-04, addressing shall comply with Santa Fe County Rural addressing requirements.

Per SFC 2001-11 / EZA 2001-04 Chapter 4, Section 3.2 Roads and Driveways; *Access roads, driveways, driveway turnarounds and driveway turnouts shall be in accordance with provisions of the Fire Code and the Land Development Code.* Roads shall meet the minimum County standards for fire apparatus access roads within this type of proposed development.

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.

Permits

As required

Final Status

Recommendation for Final Development Plan approval with the above conditions applied.

Renge Nix, Inspector

Renge Nix
Code Enforcement Official

12-5-14
Date

Through: Chief David Sperling

File: DEV/Kellywilson/easement/120314/LC

Cy: Buster Patty, Fire Marshal
Caleb Mente, Land Use *NP*
Applicant
District Chief La Cienega
File

Public Service Company of New Mexico
Land Services Department
2401 Aztec RD NE
Mailstop Z140
Albuquerque, NM 87107
Department Phone : 505 241-4440
Department Fax : 505 241-2376
www.pnm.com



December 4, 2014

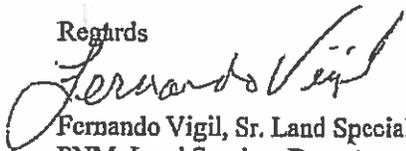
Kelly Wilson
177B Los Pinos RD
Santa Fe, NM 87507

Subject: Replat of Lot 1 Tract d-2D1, Santa Fe County, NM

Dear Ms Wilson:

Public Service Company of New Mexico (PNM) has reviewed the above referenced plat in Santa Fe County. PNM has no facilities within the proposed vacating of the 38' foot Access and Utility Easement along the Northerly Lot line of the property. PNM has no objection to the vacation or the relocation of the easement.

Regards


Fernando Vigil, Sr. Land Specialist
PNM, Land Services Department





**New Mexico
GAS COMPANY**

A TECO ENERGY COMPANY

November 18, 2014

Kelly Wilson
177B Los Pinos Rd
Santa Fe, NM 87507

Subject: Replat of Lot 1, Tract D-2DI, County of Santa Fe, New Mexico

Dear Ms. Wilson,

I have reviewed the Plat of the "Small Lot Family Transfer Survey Prepared for Kelly Wilson Lot 1", in Santa Fe County, New Mexico. New Mexico Gas Company (NMGC) does not appear to have any facilities in place that would be affected by the vacation of the 38' Access and Utility Easement along the Northerly Lot line of these properties. The relocation of this easement to the Southerly Lot line of Lot 1B will allow NMGC to serve Lot 1B and Lot 2 of the Lands of Danny and Georgia Romero to the east of these properties.

I am agreeable with signing this plat on behalf of NMGC.

Best regards,

Jeff Estvanko
Right of Way Agent
7120 Wyoming Blvd NE
Albuquerque, NM 87109
Office 505-798-3373
Mobile 505-269-1213
Jeff.Estvanko@nmgco.com



CenturyLink™

400 Tijeras NW, Sta 520
Albuquerque, NM 87102
505-681-6483 (cell)
505-245-6733 (fax)
john.tekin@centurylink.com

November 21, 2014

Kelly Wilson
P. O. Box 22342
Santa Fe, NM 87502

RE: Replat of L1, Tract D-2D1 – County of Santa Fe, NM

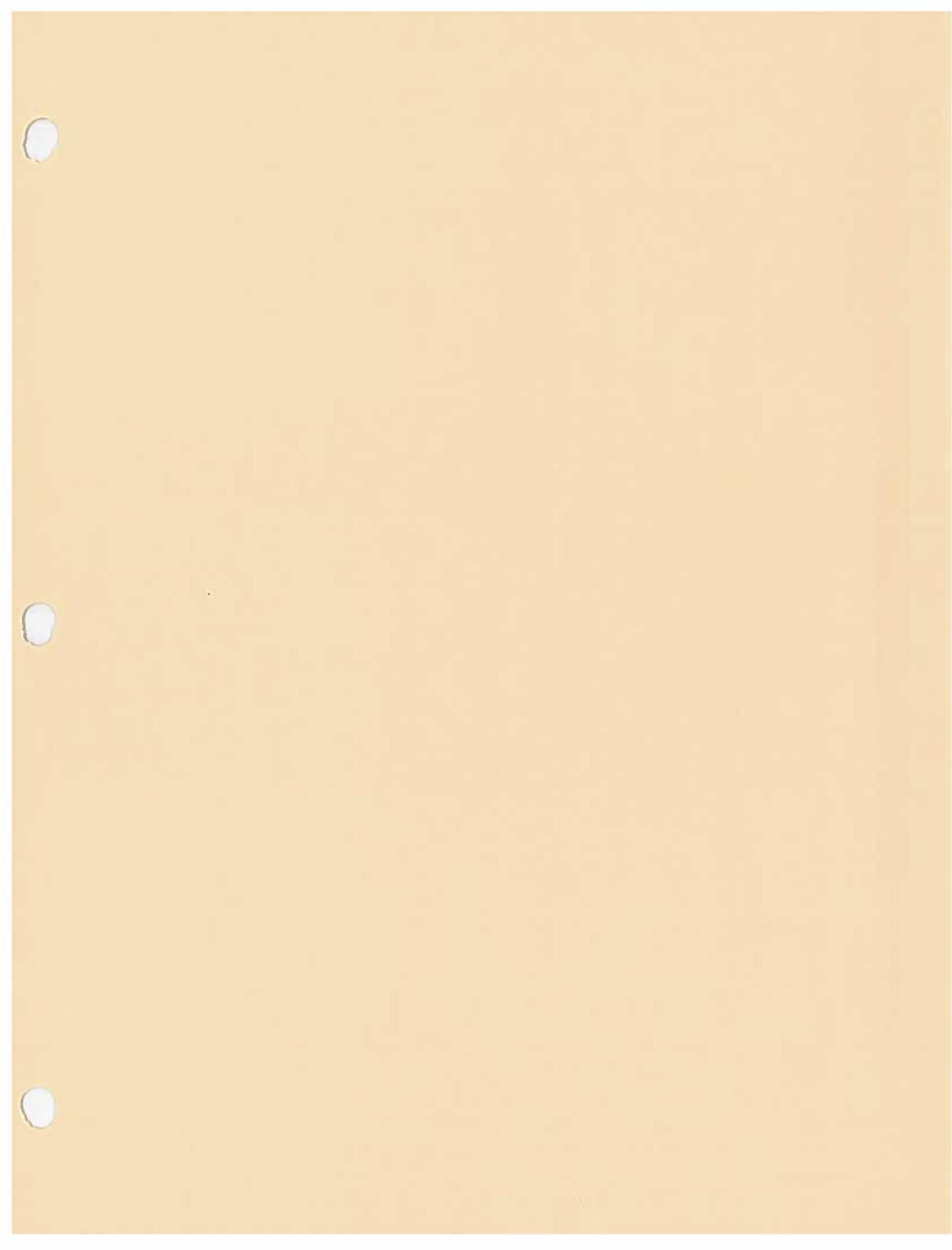
Ms. Wilson:

I have reviewed the Plat of the "Small Lot Family Transfer Survey Prepared for Kelly Wilson Lot 1", in Santa Fe County, New Mexico. Qwest Corporation, d/b/a CenturyLink QC "(CenturyLink)" does not appear to have any facilities in place that would be affected by the vacation of the 38' Access and Utility Easement along the northerly lot line of these properties. The relocation of this easement to the Southerly Lot line of Lot I B will allow CenturyLink to serve Lot 1 B and Lot 2 of the Lands of Danny and Georgia Romero to the east of these properties.

Please do not hesitate to contact me with any questions. Thank you for your time.

Sincerely,

John Tekin, SR/WA
Contract Right-of-Way, CenturyLink
Cell: 505-681-6483
Email: john.tekin@centurylink.com



Henry P. Roybal
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: January 13, 2015

TO: Board of County Commissioners

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

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

FILE REF: BCC CASE # PCEV 14-5410 Richard Berman Vacation of Easement

ISSUE:

Richard Berman, Applicant, (Paramount Surveys, Inc.) Paul Rodriguez, Agent, Request Approval To Vacate Three (3) Platted Drainage Easements On One Lot Totaling 1.397 Acres. The Property Is Located At 35 Blue Canyon Way, Within Section 20, Township 17 North, Range 9 East, (Commission District 2).

Summary:

This case is tabled due to an incomplete application.



Henry P. Roybal
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: December 30, 2014

TO: Board of County Commissioners

FROM: Mathew Martinez, Development Review Specialist *MM*

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

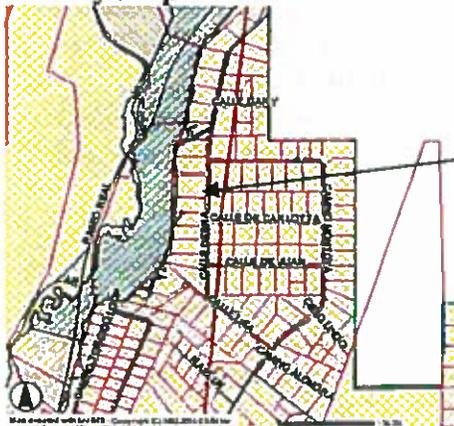
FILE REF.: CDRC CASE # V 14-5400 Melody Saucedo Variance

ISSUE:

Melody Saucedo, Applicant, request a variance of Ordinance No. 2002-9 (La Cienega and La Cieneguilla Traditional Community Planning Area and La Cienega Traditional Community Zoning District), Section 6.4 (Zoning Density) to allow two dwelling units on 3.26 acres

The property is located within the Traditional Historic Community of La Cienega at 77a Calle Debra, within Section 20, Township 16 North, Range 8 East, (Commission District 3).

Vicinity Map:



Site Location

SUMMARY:

The subject lot, owned by the Applicant, is part of the Vista Land Subdivision (consisting of 86 lots) which was created in 1974, and is recognized as a legal lot of record. There are currently two dwelling units on the property. Staff has found no evidence that the structures were permitted by Santa Fe County. The Applicant has owned the property since March 3, 2008, and claims she purchased the property with both dwelling units on it. Currently the Applicant and her family reside in one dwelling unit (2,275 sq. ft.) and her elderly Mother resides in the second dwelling unit (696 sq. ft.).

In 1985, the New Mexico Environment Department issued a permit to install a liquid waste system for a three bedroom home on 3.26 acres. The permit indicated that it was for 375 gallons per day. The drawing submitted with the Application indicated only one dwelling unit on the property. The well for the property was drilled in 1985, at the depth of 100 feet.

On August 13, 2014, the Building and Development Services Division received a complaint regarding a potential density violation on the property. On August 15, 2014, Code Enforcement conducted an inspection on the property. At that time the Applicant was issued a Notice of violation for exceeding density.

The Applicant requests a variance of Ordinance No. 2002-9 (La Cienega and La Cieneguilla Traditional Community Planning Area and La Cienega Traditional Community Zoning District), Section 6.4 (Zoning Density) to allow two dwelling units on 3.26 acres. The Code only allows one dwelling unit per 10 acres. The Applicant has not undertaken a geohydrologic report which would allow an increase in density of up to one dwelling unit per 2.5 acres. The majority of surrounding properties appear to have one dwelling per legal lot.

The Applicant states a variance is needed due to her being a single mother of 4 and barely surviving the economic down fall of 2008. She further states that she is putting pennies together to feed her family. The Applicant also states that she provides affordable housing for her elderly mother and that her mother helps provide care for her children and without her help; her children would not have a place to call home.

Section 6.25.2 (Review of Applications Requesting Increased Zoning Density) of Ordinance No. 2002-9 states "when examining requests for increases in zoning density, all applicable review bodies shall consider the proposed development's impact on factors such as but not limited to traffic, schools, water, liquid waste, and infrastructure as part of the development review process. It is appropriate requests for increases in zoning density to be denied in the Planning Area if the reviewing body determines that there is a reasonable expectation, based on the evidence presented, that the development would negatively impact the community and/or surrounding neighbors.

An increase in density from one dwelling unit per 10 acres to two dwelling units per 3.26 acres would set a precedent that could negatively impact the community and neighboring properties due to potential water quality issues from the increase in liquid waste disposal and an, overall increase in water use. Increased density would also increase traffic and could create a health safety issue due to the lack of fire protection in the area.

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

This Application was submitted on September 12, 2014

On December 18, 2014, the County Development Review Committee (CDRC) met and acted on this case. The decision of the CDRC was to recommend denial of the Applicant's request (Minutes Attached as Exhibit 1).

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

APPROVAL SOUGHT: Approval of a Variance of Ordinance No. 2002-9 (La Cienega and La Cieneguilla Traditional Community Planning Area and La Cienega Traditional Community Zoning District), Section 6.4 (Zoning Density) to allow two dwelling units on 3.26 acres.

GROWTH MANAGEMENT AREA: SDA-2

HYDROLOGIC ZONE: The property is located within the Traditional Historic Community of La Cienega Basin Hydrologic Zone. Minimum lot size in this area is 10 acres per dwelling unit. Lot size can be reduced to 2.5 acres per dwelling unit with proof of 100 year water supply through a geohydrologic reconnaissance report, and adoption of water use covenants.

FIRE PROTECTION: La Cienega Fire District. The Santa Fe County Fire Department official development review noted that the applicant's driveway entrance and drivable surface will have to be increased to twenty feet with a secondary driveway of only fourteen feet to the second dwelling unit. The driveway will have to be improved to have a minimum of 6" compacted basecourse. The existing driveway ranges

from approximately 13' to 25' in width and is approximately 235' in length.

WATER SUPPLY: Shared Domestic well

LIQUID WASTE: Conventional Septic System permitted for one dwelling unit. Conventional Septic System currently serving two dwelling units.

VARIANCES: Yes

AGENCY REVIEW:	<u>Agency:</u>	<u>Recommendation:</u>
	Fire Prevention	Conditional approval

STAFF RECOMMENDATION: Denial of a variance of Ordinance No. 2002-9 (La Cienega and La Cieneguilla Traditional Community Planning Area and La Cienega Traditional Community Zoning District), Section 6.4 (Zoning Density) to allow two dwelling units on 3.26 acres.

The decision of the CDRC was to recommend denial of the Applicants' request.

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

1. Water use shall be restricted to 0.25 acre feet per year per home. A water meter shall be installed for each homes within ninety days of recording the order granting the variance. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office at the time of submission for a Development Permit (As per Article III, § 10.2.2 and Ordinance No. 2002-13).
2. The Applicant must obtain a development permit from the Building and Development Services Department for both dwelling units within ninety days of recording the final order granting the variance. (As per Article II, § 2).The placement of additional dwelling units or Division of land is prohibited on the property. (As per Ordinance No. 2002-9 § 6.4) (Zoning Density).
3. The Applicant shall provide an updated liquid waste permit for the second dwelling unit from the New

Mexico Environment Department with the Development Permit Application (As per Article III, § 2.4.1a.1 (a) (iv).

4. The Applicant shall comply with all Fire Prevention Division requirements at time of development permit Application (As per 1997 Fire Code and NFPA Life Safety Code).
5. The existing driveway entrance and drivable surface shall be 20' wide to meet the minimum county standards for fire apparatus access roads for service to first residence. To the second residence the driveway shall be a 14' wide county approved all-weather driving surface of minimum 6" compacted basecourse or equivalent. Minimum gate width shall be 20' and unobstructed vertical clearance of 13'6".
6. The conditions are conditions precedent to granting of the variance. If the Applicant fails to comply with any conditions set forth above within the time periods provided, the variance shall be denied.

EXHIBITS:

1. December 18, 2014 CDRC Minutes
2. Letter of request
3. Ordinance No. 2002-9 § 6.4 (Zoning Density)
4. Article II, § 3 (Variances)
5. Site Plan
6. Site Photographs
7. Aerials of Site and Surrounding Area
8. Fire Prevention letter

the variance were approved the applicant would be required to meter the well and use .25 acre-feet per year per unit.

There was no public wishing to speak regarding this item.

Member Anaya arrived at this time.

Member Booth moved to deny the variance. Member Katz seconded and in support of the denial mentioned the misrepresentation in the 2001 application for the second unit and that the kitchen could be shared by the family. The motion passed by majority 4-1-1 voice vote: Member Gonzales voting against and Member Anaya abstaining.

- B. CDRC CASE # V 14-5400 Melody Saucedo Variance. Melody Saucedo, Applicant, request a variance of Ordinance No. 2002-9 (La Cienega and La Cieneguilla Traditional Community Planning Area and La Cienega Traditional Community Zoning District), Section 6.4 (Zoning Density) to allow two dwelling units on 3.26 acres. The property is located within the Traditional Historic Community of La Cienega at 77a Calle Debra, within Section 20, Township 16 North, Range 8 East, (Commission District 3)
[Exhibit 3: La Cienega Valley Association letter opposing variance]

Case Manager Martinez read the case caption and provided a staff report as follows:

“The subject lot, owned by the Applicant, is part of the Vista Land Subdivision consisting of 86 lots which was created in 1974, and is recognized as a legal lot of record. There are currently two dwelling units on the property. Staff has found no evidence that the structures were permitted by Santa Fe County. The Applicant has owned the property since March 3, 2008, and claims she purchased the property with both dwelling units on it. Currently the Applicant and her family reside in one dwelling unit, 2,275 square foot and her elderly mother resides in the second dwelling unit which is 696 square feet.

“In 1985, the New Mexico Environment Department issued a permit to install a liquid waste system for a three bedroom home on 3.26 acres. The permit indicated that it was for 375 gallons per day. The drawing submitted with the Application indicated only one dwelling unit on the property. The well for the property was drilled in 1985, at the depth of 100 feet.

“On August 13, 2014, the Building and Development Services Division received



15, a complaint regarding a potential density violation on the property. On August 2014, Code Enforcement conducted an inspection on the property. At that time the Applicant was issued a Notice of violation for exceeding density.

an “The Applicant has not undertaken a geohydrologic report which would allow an increase in density of up to one dwelling unit per 2.5 acres. The majority of surrounding properties appear to have one dwelling per legal lot.

that “The Applicant states a variance is needed due to her being a single mother of four and barely surviving the economic down fall of 2008. She further states that she is putting pennies together to feed her family. The Applicant also states that she provides affordable housing for her elderly mother and that her mother helps provide care for her children and without her help; her children would not have a place to call home.”

Mr. Martinez said staff reviewed the request and recommends denial of a variance of Ordinance No. 2002-9, Section 6.4, Zoning Density, to allow two dwelling units on 3.26 acres. He advised the CDRC that if they were to approve the application, staff has six recommended conditions.

Mr. Martinez confirmed that there were two separate dwelling units both containing kitchens. If one of the kitchens were removed the property would be in compliance.

Mr. Martinez said there is no aerial photography verifying that the two units were there at the time the applicant purchased the property.

Duly sworn, applicant, Melody Saucedo, said the detached dwelling was present on the property when she purchased it. She stated she was unaware of any violation when she purchased the property.

Member Katz asked the applicant whether she was willing to remove the kitchen in the second dwelling. Ms. Saucedo said it was impractical because her mother is elderly, needs to be able to prepare meals for herself and in the winter when it is icy and dark it would be very difficult for her mother.

There were no members of the public wishing to comment on this case.

Member Katz moved to deny the request noting there was no compelling basis to grant the variance. Member Martin seconded.

Chair Drobni allowed the applicant to speak again and she said she understood that she was able to conduct a family transfer and urged the CDRC to approve her variance. Ms. Saucedo said she'd prefer to keep the land whole but would seek a family transfer if necessary. Chair Drobni recommended she meet with staff.

The motion passed by unanimous [6-0] voice vote.

To Whom it May Concern,

Re: Density Variance on property located at 77 A Calle Debra, Santa Fe, NM, 87507

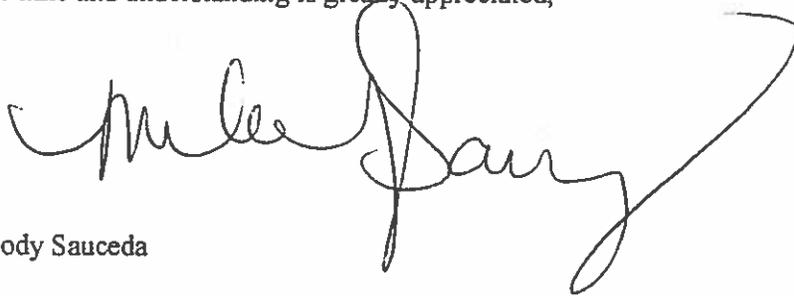
The 2,275 square foot house and the 696 square foot accessory dwelling were existing when I purchased the property in 2005. I have not altered nor expanded the structures. I was unaware of any County violations as far as density. I utilize the accessory dwelling to provide affordable housing for my elderly mother. I am a single mother of 3 minor children and 1 child on the way. My mother helps care for my children. I am barely surviving the economic down fall of 2008 and putting pennies together to feed my family.

The Santa Fe County Sustainable Land Development, Chapter 10, Section 10.4 allows for a main house and accessory dwelling. The criteria are: the accessory dwelling does not exceed 1,200 square feet or more than 50% of the square footage of the main house; the accessory dwelling unit shall be clearly incidental and subordinate to the use of the principal dwelling.

My property is located in the La Cienega/La Cienegilla Traditional Community where this section of the SLDC may not be applicable until the La Cienega/La Cienegilla Traditional Ordinance is amended. The existing structures and use of the structures are within the guidelines of the SLDC. I am asking that you consider my request as being collaborative with the SLDC.

In closing I would like to state that I do not want to expand the accessory dwelling. I would like to keep the structures as they were when I purchased the property and utilize the accessory dwelling for my mother to live in. Without her help it would be difficult to care for my children and provide them a place to call home. I agree to monitor the water use as the County Staff deems appropriate.

Your time and understanding is greatly appreciated,



Melody Saucedo

505-231-3298



1 plan approval where such approval is required, at the time of adoption of this Ordinance, shall
2 comply with this ordinance. This Ordinance and standards may be amended from time to time.

3
4 **6.4 Zoning Density:**

5 **6.4.1 Traditional Community Zoning District:**

6 Maximum density is three quarters of an acre per one dwelling unit (.75 acre). Density
7 adjustments must follow requirements as outlined in Article III, Section 10 and Article
8 VII, Section 6 of the Code, as amended, along with all requirements outlined in this
9 ordinance. The maximum density shall not be increased even when community water and
10 sewer systems are provided except where density transfer is used to protect sensitive
11 lands or preserve community assets as described in Section 6.6 and gross density is
12 maintained. Note: the Traditional Community Zoning District is located within the
13 Traditional Historic Community boundary but the .75 acre zoning density applies only in
14 the Traditional Community Zoning District. See attached map b.), *La Cienega*
15 *Traditional Community Zoning District.*

16 **6.4.2 Basin Zone:**

17 Maximum density in the Basin Zone shall be ten acres per one dwelling unit (10 acres).
18 With proof of 100 year water supply through a geohydrologic reconnaissance report, and
19 adoption of water use covenants (See Attachment 1), the maximum density may be
20 increased to one dwelling unit per 2.5 acres. Density adjustments above one dwelling unit
21 per 10 acres must follow requirements as outlined in Article III, Section 10 and Article
22 VII, Section 6 of the Code, as amended, along with all requirements outlined in this
23 ordinance. The maximum density shall not be increased even when community water and
24 sewer systems are provided except where density transfer is used to protect sensitive
25 lands or preserve community assets as described in Section 6.6 and gross density is
26 maintained.

27 **6.4.3 Basin Fringe Zone:**

28 Maximum density in the Basin Fringe Zone shall be fifty acres per one dwelling unit (50
29 acres). With proof of 100 year water supply through a geohydrologic reconnaissance
30 report, and application of water use covenants (See Attachment 1), the maximum density
31 may be increased to one dwelling unit per 12.5 acres. If an adequate 100 year supply of
32 water, and no impairment to neighboring wells, is proven by an on-site geohydrological
33 well test, land may be further divided to a maximum of 2.5 acres per dwelling unit.
34 Density adjustments above one dwelling unit per 50 acres must follow requirements as
35 outlined in Article III, Section 10 and Article VII, Section 6 of the Code, as amended,
36 along with all requirements outlined in this ordinance. The maximum density shall not be
37 increased even when community water and sewer systems are provided except where
38 density transfer is used to protect sensitive lands or preserve community assets as
39 described in Section 6.6 and gross density is maintained.

40 **6.4.4 Homestead Zone:**

41 Maximum density in the Homestead Zone shall be one hundred and sixty acres per one
42 dwelling unit (160 acres). With proof of 100 year water supply through a geohydrologic
43 reconnaissance report, and application of water use covenants (See Attachment 1), the
44 maximum density may be increased to one dwelling unit per 40 acres. If an adequate 100
45 year supply of water, and no impairment to neighboring wells, is proven by an on-site
46 geohydrological well test, land may be further divided to a minimum of 2.5 acres per



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

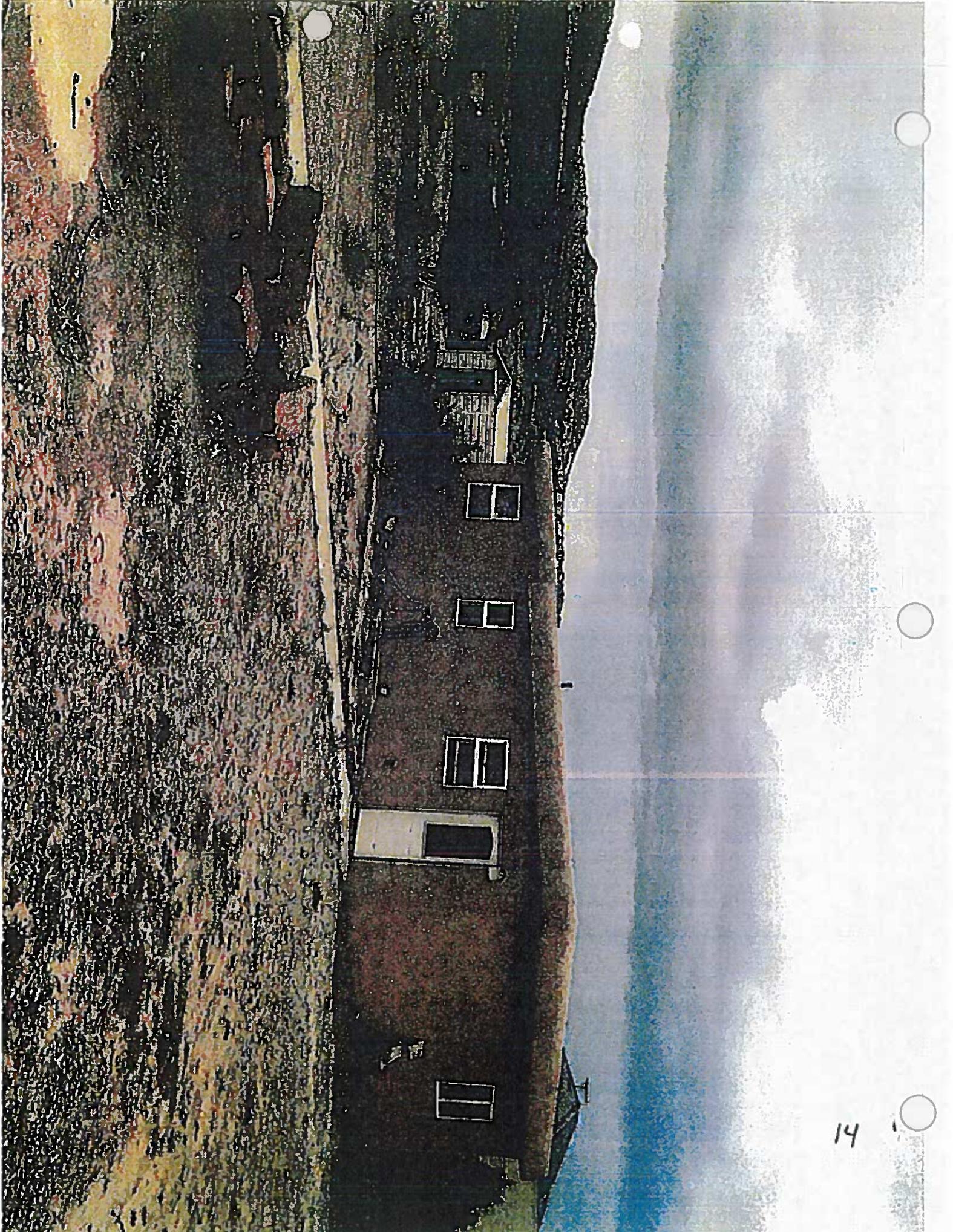
All height variance requests for land located with approach, Transitional, Horizontal and Conical surfaces as described within Map #31 A, incorporated herein by reference, shall be reviewed for compliance with Federal Aviation Administration Regulations. The application for variance shall be accompanied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

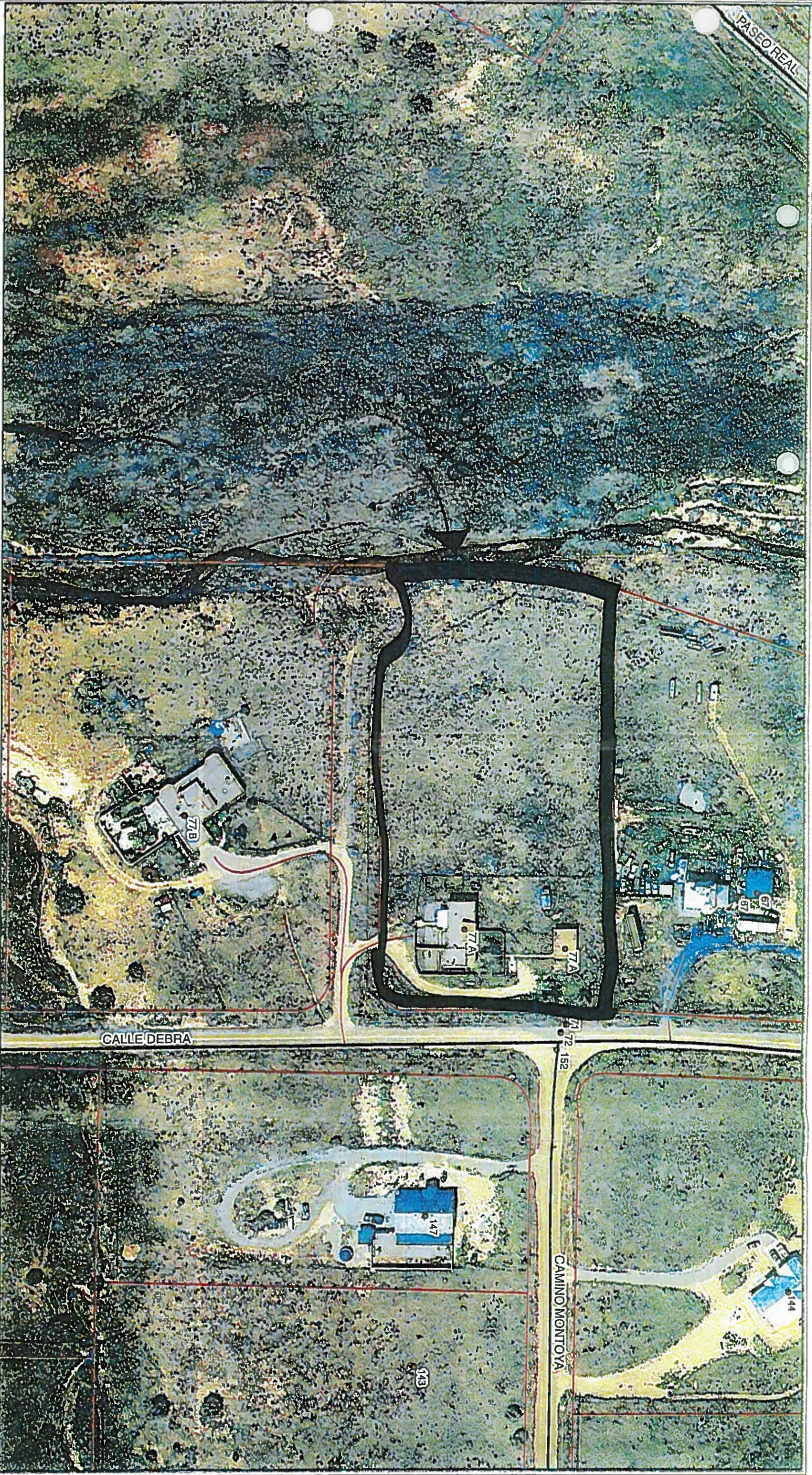


11



EXHIBIT
6.





- Legend**
-  ROADS
 -  DRIVEWAYS
 -  PARCELS

EXHIBIT
7



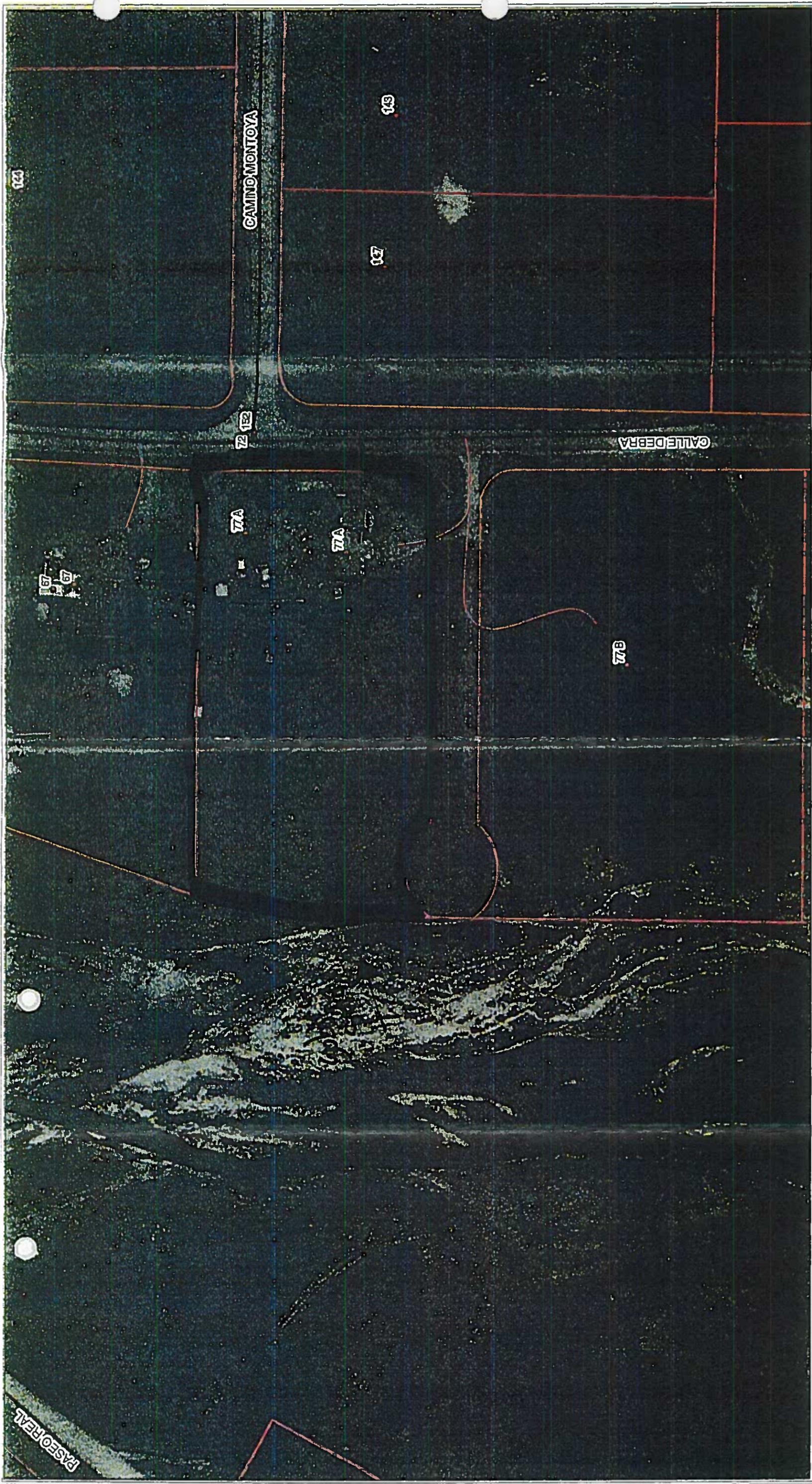
2005 Imagery
2 FOOT CONTOURS

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



October 8, 2014

15



October 8, 2014

1992 Imagery
2 FOOT CONTOURS

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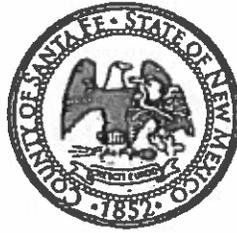


- Legend**
-  ROADS
 -  DRIVEWAYS
 -  PARCELS

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: 10-22-2014

Project Name: Melody Saucedo

Project Location: 77 A Calle Debra, Santa Fe, New Mexico 87507

Description: Variance of Density Case Manager: Matt Romero

Applicant Name: Melody Saucedo County Case #: 14-5400

Applicant Address: 77 A Calle Debra Fire District: La Cienega
Santa Fe, New Mexico 87507

Applicant Phone: 505-231-3298

Review Type: Commercial Residential Sprinklers Hydrant Acceptance
 Master Plan Preliminary Final Inspection Lot Split
 Wildland Variance

Project Status: Approved Approved with Conditions Denial

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:

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

- Fire Access Lanes

Section 901.4.2 Fire Apparatus Access Roads. (1997 UFC) When required by the Chief, approved signs or other approved notices shall be provided and maintained for fire apparatus access roads to identify such roads and prohibit the obstruction thereof or both.

- 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 existing driveway entrance and drivable surface shall be 20' wide to meet the minimum County standards for fire apparatus access roads for service to first residence. To the second residence the driveway shall be 14' wide County approved all-weather driving surface of minimum 6" compacted basecourse or equivalent. Minimum gate width shall be 20' and an unobstructed vertical clearance of 13'6".

- **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.*

All access roadway identification signs leading to the approved development area(s) shall be in place prior to the required fire hydrant acceptance testing. Said signs shall remain in place in visible and viable working order for the duration of the project to facilitate emergency response for the construction phase and beyond.

- **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.*

There are no slopes the exceed 11%.

- **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.

Fire Protection Systems

- **Automatic Fire Protection/Suppression**

This office highly recommends the installation of an automatic fire suppression system as per 1997 Uniform Fire Code, Article 10 Section 1003.2.1 and the Building Code as adopted by the State of New Mexico and/or County of Santa Fe. Required automatic fire suppression systems shall be in accordance with NFPA 13 and 13D Standard for automatic fire suppression systems. It is recommended that the homeowner contact their insurance carrier to find their minimum requirements.

- **Fire Alarm/Notification Systems**

Automatic Fire Protection Alarm systems are highly recommended per 1997 Uniform Fire and Building Codes as adopted by the State of New Mexico and/or the County of Santa Fe. Required Fire Alarm systems shall be in accordance with NFPA 72, National Fire Alarm Code for given type of

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.

Permits

As required

Final Status

Recommendation for Final Development Plan approval with the above conditions applied.

Renee Nix, Inspector

Renee Nix
Code Enforcement Official

10-22-14
Date

Through: Chief David Sperling

File: DEV/Melody Saucedo/102214/LC

Cy: Buster Patty, Fire Marshal
Caleb Mente, Land Use
Applicant
District Chief La Cienega
File

structure and/or occupancy use. Said requirements will be applied as necessary as more project information becomes available to this office during the following approval process.

Hydrants

Shall comply with Article 9, Section 903 - Water Supplies and Fire Hydrants of the 1997 Uniform Fire Code, inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal.

Section 903.4.2 Required Installations. (1997 UFC) *The location, number and type of the fire hydrants connected to a water supply capable of delivering the required fire flow shall be provided on the public street or on the site of the premises or both to be protected as required and approved.*

Fire hydrants subject to possible vehicular damage shall be adequately protected with guard posts in accordance with Section 8001.11.3 of the 1997 UFC.

All fire hydrants shall be spaced so that the furthest buildable portion of a parcel shall be within one thousand feet (1,000') as measured along the access route.

Fire hydrant locations shall be no further than 10 feet from the edge of the approved access roadways with the steamer connections facing towards the driving surface. Final fire hydrant locations shall be located in full view for incoming emergency responders. Landscape vegetation, utility pedestals, walls, fences, poles and the like shall not be located within a three foot radius of the hydrant per Article 10, Sections 1001.7.1 and 1001.7.2 of the 1997 UFC.

Supply lines shall be capable of delivering a minimum of 500 gpm with a 20-psi residual pressure to the attached hydrants. The design of the system shall be accordingly sized and constructed to accommodate for the associated demands placed on such a system through drafting procedures by fire apparatus while producing fire flows. The system shall accommodate the operation of two pumping apparatus simultaneously from separate locations on the system. Final design shall be approved by the Fire Marshal. All hydrants shall have NST ports.

No building permits shall be granted until such time as the fire hydrants have been tested and approved by the Santa Fe County Fire Marshal.

All hydrants shall comply with Santa Fe County Resolution 2000-55, Hydrant color-coding, marking and testing.

- **Fire Extinguishers**

Article 10, Section 1002.1 General (1997 UFC) *Portable fire extinguishers shall be installed in occupancies and locations as set forth in this code and as required by the chief. Portable fire extinguishers shall be in accordance with UFC Standard 10-1.*

Portable fire extinguishers are highly recommended to be installed in occupancies and locations as set forth in the 1997 Uniform Fire Code. Portable fire extinguishers shall be in accordance with UFC Standard 10-1.

- **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



Henry P. Roybal
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: December 30, 2014

TO: Board of County Commissioners

FROM: Mathew Martinez, Development Review Specialist *MEM*

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

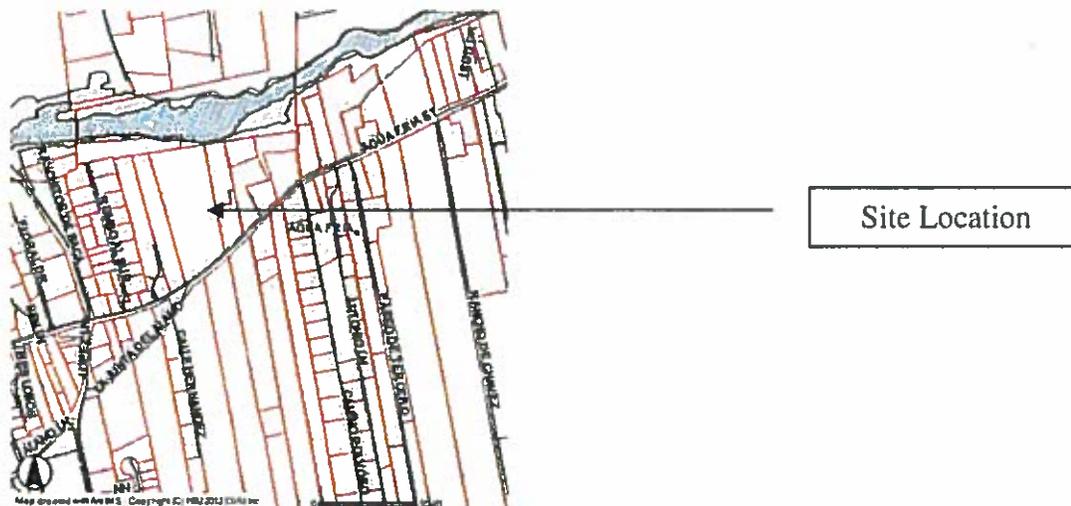
FILE REF.: BCC CASE # MIS 06-5272 Tavelli Master Plan Time Extension

ISSUE:

Michael A. Tavelli, Applicant, requests a 24-month time Extension of the previously approved Tavelli Mixed-Use Subdivision Master Plan.

The property is located at 3969 Agua Fria Street, east of Lopez Lane, within Section 31, Township 17 North, Range 9 East, (Commission District 2).

Vicinity Map:



SUMMARY:

On January 8, 2008, the BCC granted Master Plan approval for a 17-lot mixed-use subdivision on 5.65-acres (Refer to Exhibit 3). The subdivision included fifteen (15) residential lots, two commercial lots and an area dedicated to the County for a park trailhead.

On January 8, 2013, the Board of County Commissioners (BCC) approved a 24-month time extension of the Master Plan approval for the Tavelli Mixed-Use Subdivision (Refer to Exhibit 4).

The current Master Plan for the Tavelli Mixed Use Subdivision will expire on January 8, 2015. The Applicant is requesting a two year extension in order to allow additional time for an economic recovery to take effect that would make development of the subdivision financially feasible. The Applicant also states that changes in the Affordable Housing requirements may ultimately impact the Final Development Plan and plat of the Tavelli Subdivision and may require further review.

Article V, Section 5.2.7 of the County Land Development Code states, "Approval of a Master Plan shall be considered valid for a period of five (5) years from the date of approval by the Board. Master Plan approvals may be renewed and extended for additional two (2) year periods by the Board at the request of the Developer."

This Application was submitted on December 1, 2014.

Growth Management staff has reviewed this Application for compliance with pertinent Code requirements and finds the project is in compliance with County criteria for this type of request.

APPROVAL SOUGHT: Approval of a 2-year time extension of the Tavelli Master Plan in accordance with Article, V, Section 5.2.7 of the Santa Fe County Land Development Code.

GROWTH MANAGEMENT AREA: El Centro, SDA-2

HYDROLOGIC ZONE: Agua Fria Traditional Community Zoning District (AFTCZD) Minimum lot size per Ordinance No. 2007-2 is 0.75 acers per dwelling unit. Traditional Community of Agua Fria. The minimum lot size in the Traditional Community is .75-acres per dwelling unit. Lot size can be reduced to .33-acres per dwelling unit with Community Water and Community Sewer.

FIRE PROTECTION: Agua Fria Fire District

WATER SUPPLY: City of Santa Fe Water System

LIQUID WASTE: City of Santa Fe Liquid Waste System

VARIANCES: No

AGENCY REVIEW: None

STAFF RECOMMENDATION: Approval of a 2-year time extension of the approved Master Plan for the Tavelli Mixed-Used Subdivision. Which will render the Master Plan Valid until January 8, 2017.

EXHIBITS:

1. Letter of request
2. Site Plans
3. January 8, 2008 BCC Minutes
4. January 8, 2013 BCC Minutes
5. Photos of Site
6. Aerial Photo of Site and Surrounding Area

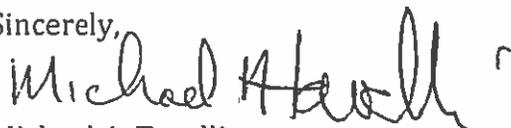
Penny Ellis-Green
Land Use Administrator
County of Santa Fe
102 Grant Ave
Santa Fe, NM 87501-2061

Dear Ms. Ellis-Greene,

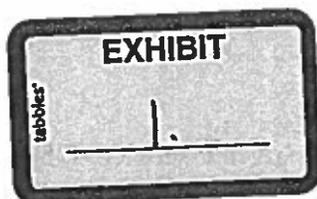
We are requesting a 24-month extension of the previously approved Tavelli Mixed-Use Subdivision Master Plan. The continuing economic recession and unfavorable business climate are prohibitive for us to proceed with our development plans at this time.

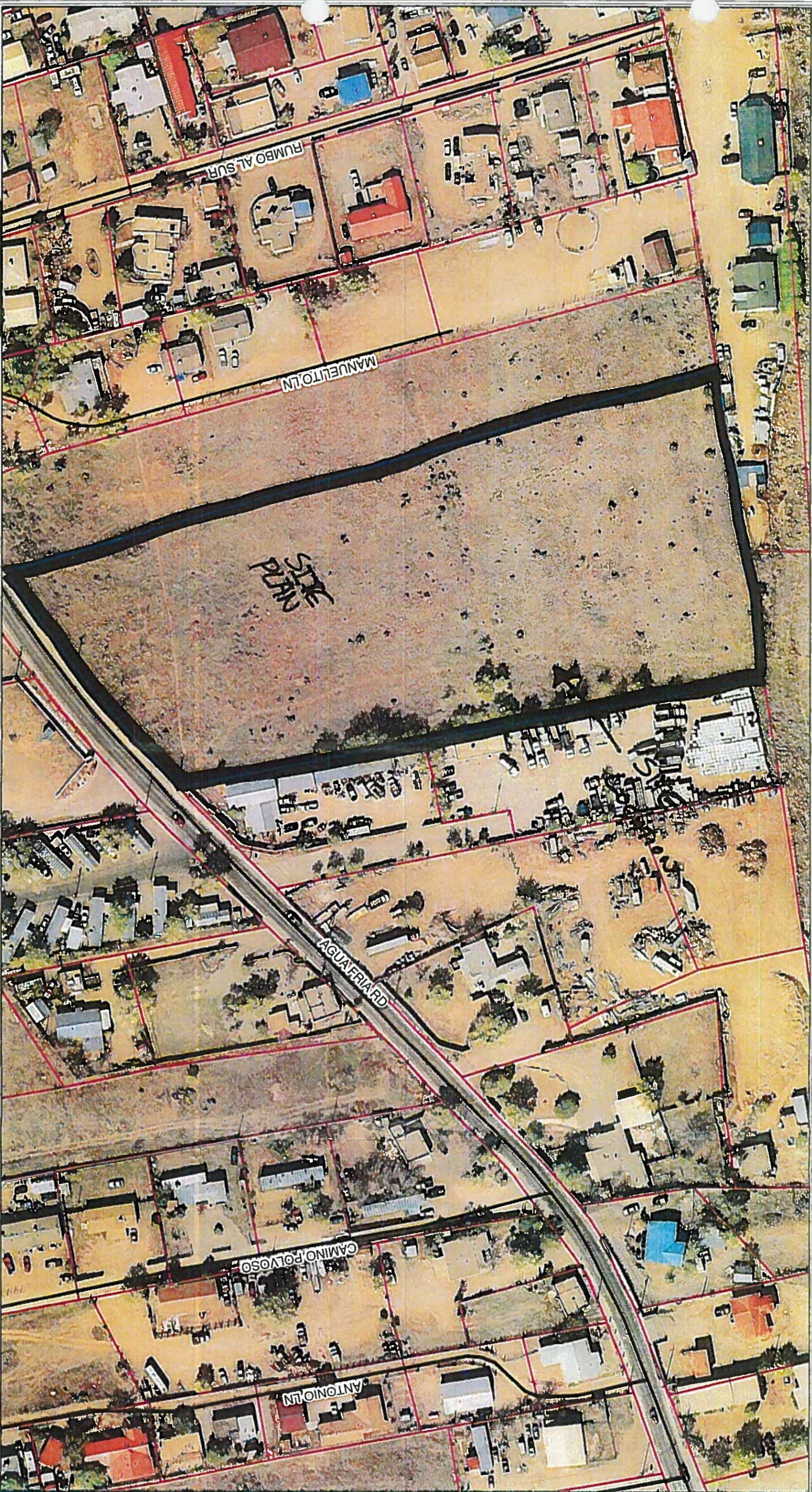
Thank you for your consideration in this matter.

Sincerely,



Michael A. Tavelli





Legend

ROADS

PARCELS

EXHIBIT
2

1:1,200
1 inch represents 100 feet



2008 Imagery
2 FOOT CONTOURS

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Santa Fe County assumes no liability for
errors associated with the use of these data.
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confirming data accuracy.



December 22, 2014

that interchange. And so I doubt very seriously if they would actually affect this piece of property. That would be one big interchange if they did that. So my gut reaction is that it probably would have no effect on this property.

CHAIRMAN SULLIVAN: Okay. Did we get DOT comments on this?

MR. WALKER: DOT? We had City staff and we had County staff.

CHAIRMAN SULLIVAN: I didn't see any DOT comments.

MR. WALKER: No DOT comments. The City is controlling that part of Airport Road.

CHAIRMAN SULLIVAN: The City controls Airport. I know that. So you're not aware of any impact from the interchange proposed at 599 and Airport.

MR. WALKER: No, I'm not.

CHAIRMAN SULLIVAN: Okay. Thank you. Anything else, Mr. McFall?

MR. MCFALL: I was going to say, this parcel was originally - there's a lot line that you may be able to see that we're abandoning. This lot was half again as big and the storage units ended up picking up half of one of the lots. This is a consolidation. So I can't remember the exact distance from Airport but we're a substantial distance from Airport Road. I mean from 599.

CHAIRMAN SULLIVAN: Okay. Thank you. This is a public hearing. Is there anyone present who would like to speak for or against the project? Seeing none, we'll close the public hearing. What's the pleasure of the Commission?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: I move that we go with staff recommendation for approval of master plan and preliminary development plan with final development plan to be approved administratively, and with the conditions.

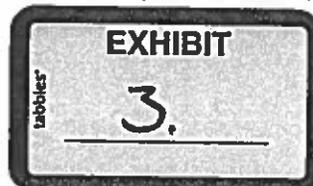
COMMISSIONER VIGIL: I'll second that.

CHAIRMAN SULLIVAN: We have a motion and a second. Is there further discussion?

The motion passed by unanimous [3-0] voice vote.

- XIV. A. 4. **AFDRC Case # Z/S 06-5271 Tavelli Mixed-Use Subdivision - Michael Tavelli, Applicant, Jim Siebert, Agent, Request Master Plan Approval for a 17-Lot Mixed -Use Subdivision on 5.65 Acres. The Subdivision will Include Fifteen (15) Residential Lots, Two Commercial Lots and an Area Dedicated to Santa Fe County for a Park Trailhead. The Property is Located on Agua Fria, Within Sections 6,7, & 31, Township 16 North, Range 9 East (Commission District 2)**

JOHN M. SALAZAR (Case Planner): Thank you, Mr. Chair. Michael



Tavelli, applicant, Jim Siebert, agent, request master plan approval for a 17-lot mixed - use subdivision on 5.65 acres. The subdivision will include fifteen residential lots, two commercial lots and an area dedicated to the County for a park trailhead. The property is located on Agua Fria, in Sections 6,7, and 31, Township 16 North, Range 9 East, Commission District 2.

On August 1, 2007 the Agua Fria Development Review Committee met and acted on this case. The decision of the AFDRC was to recommend approval with staff conditions. The applicant requests master plan approval for a 17-lot mixed-use subdivision consisting of 15 residential lots with an average lot size of 11,667 square feet and two commercial lots with a lot size of 20,057 square feet for Lot C-1 and 25,227 square feet for Lot C-2.

The project is located in the Traditional Historic Community of Agua Fria where the minimum lot size is 0.33 acres with community water and community sewer services. Mixed use is permitted in this area pursuant to the Agua Fria Traditional Community Plan.

The project includes the dedication of one lot for a public trailhead including eight parking spaces and several benches, providing public access to the San Ysidro River Park.

This application was reviewed for the following: affordable housing - the applicant is proposing five affordable units, access and parking - the proposed development will utilize a single paved access off Agua Fria Road, water - the applicant is proposing that the development will be served by the City of Santa Fe water system. The applicant received a letter of commitment from the City of Santa Fe and has identified the water source for this development as the City of Santa Fe. The applicant's agent has indicated that no water rights will be transferred to the City of Santa Fe and that water use can be satisfied based no retrofits.

It was also reviewed for phasing, existing development, terrain management, water harvesting, fire protection, liquid and solid waste, landscaping, which the applicant proposed a 10-foot landscape buffer between the project and Agua Fria Road, archeology, signage, lighting, trails and open space, and as mentioned before, the development includes a trailhead for access to the San Ysidro River Park.

Staff recommendation: as previously stated here on August 1, 2007 the AFDRC recommended master plan approval with a unanimous vote. Staff believes that the project meets the criteria for development in the Agua Fria Traditional Historic Community as outlined in Ordinance 2006-2 and recognizes the applicant has worked closely with County staff to resolve the majority of development issues and is providing a trailhead access to the San Ysidro River Park.

Development Review staff has received correspondence from both the City of Santa Fe and the County's affordable housing administrator which indicates that the project can comply with both City and County affordable housing ordinances. It is clear that under normal circumstances the City and County affordable housing ordinances cannot coexist. In this case the City's affordable housing administrator believes both can apply.

Identification of a valid water source is required for master plan approval and the

applicant has a letter of service from the City of Santa Fe's Sangre de Cristo Water Department indicating that the City of Santa Fe is willing to provide water for this development. So therefore staff concurs with the recommendation by the AFDRS for approval of the applicant's request for master plan for a 17-lot mixed-use subdivision on 5.65 acres based upon the following conditions:

1. Compliance with applicable review comments from
 - (a) State Engineer's Office
 - (b) County Technical Review
 - (c) State Historic Preservation Division
 - (d) County Public Works Department
 - (e) County Hydrologist
 - (f) State Environmental Department
 - (g) County Fire Department
 - (h) City Water and Wastewater
 - (i) County Affordable Housing Administrator
 - (j) County Open Space and Trails
2. All staff redlines must be addressed; original redlines will be returned prior to master plan recordation.
3. This application is subject to final inspection by the County Fire Marshal. The applicant shall comply with all Fire Marshal requirements.
4. A dumpster, with a 6' masonry screen wall shall be provided for the studio units.
5. Right-of-way shall be provided along Agua Fria Road for the existing roadway improvements. The total width required shall be coordinated with the Public Works Department.
6. Affordable units shall be provided per the County Affordable Housing Ordinance. Residual fees (if any) and context of the Affordable Housing Agreement will be determined by and paid to the Santa Fe County Housing Authority prior to recordation of the final plat.
7. Proposed structures shall comply with rainwater harvesting criteria as established by Ordinance #2003-6. A water-harvesting plan shall be submitted with the final development plan application.
8. The height of non-residential structures shall not exceed 24 feet.
9. The master plan with appropriate signatures will be recorded with the County Clerk's office.
10. A detailed lighting and signage plan must be submitted for review and approval prior to final development plan approval.
11. The applicant is directed to routinely meet with community and business entities as they proceed with final development plan approval in accordance with Section 10.9 of Santa Fe Ordinance No. 2007-2.
12. Once AFCWS has the capacity to serve the development the applicant shall

disconnect from the City utility and connect to AFCWS.

CHAIRMAN SULLIVAN: Questions for staff?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: John Michael, you said that the City affordable housing administrator said that both City and County affordable housing ordinances can coexist? Can you explain that?

MR. SALAZAR: Mr. Chair, Commissioner Montoya, it's my impression that their housing administrator, along with our affordable housing administrator have worked together to administer this project.

COMMISSIONER MONTOYA: So, under the City's ordinance, how many affordable units would there be?

MR. SALAZAR: I believe it was 2.6, and I think it was either at the City Council meeting or at the Public Utilities Committee meeting where one of the City Councilors asked the applicant to up that to an even three and the applicant agreed.

COMMISSIONER MONTOYA: And what about under our ordinance?

MR. SALAZAR: Our ordinance is 2.4.

COMMISSIONER MONTOYA: So if they added them up both they could do six? I'm just kidding.

CHAIRMAN SULLIVAN: Mr. Sill is here. Do you want to speak to that?

COMMISSIONER MONTOYA: Oh, Duncan, is that -

CHAIRMAN SULLIVAN: Mr. Sill, would you come forward please? I thought the City's requirement was five units, but correct me if I'm wrong, Mr. Sill.

DUNCAN SILL (Affordable Housing Administrator): Mr. Chair, Commissioners, the City's affordable housing requirements that the City is mandating is a 30 percent requirement for a project this size, so in fact the applicant would actually have to provide five affordable units for this particular development. Under our jurisdiction, under County requirements, our requirement is calculated - this is considered a minor project so they're subject to a 15 percent affordable housing requirement, which results in a 2.4 affordable unit requirement. And since the City's requirement is more stringent at five units the applicant is actually already meeting the County's requirement as a result.

The point that we discussed with City staff, with their affordable housing office, is actually how if there's a way for us to allow the requirements to be met and have the administration of these requirements to be reasonable we deliver - to be monitored and managed. We have been able, to the best of our ability, with the applicant's participation and agreement to work something out and it's delineated in your packet how that may occur. There's also a letter from the City affordable housing office, Cathy McConnick, their director, stating that arrangement -

COMMISSIONER MONTOYA: So the final number hasn't been determined yet, if it's going to be three or five?

MR. SILL: The final - the overall project requirement would be five. The applicant has agreed to provide five.

COMMISSIONER MONTOYA: Oh, okay.

MR. SILL: Total units, of which three units would actually be administered by the City and two units would be administered by us and that would satisfy both our requirements.

COMMISSIONER MONTOYA: Thank you.

CHAIRMAN SULLIVAN: And Mr. Sill, there was some comment in there about the applicant requesting that we waive a portion of the fee, the partial fee. Could you explain that?

MR. SILL: Yes. Under normal circumstances there were two affordable housing requirements under different jurisdictions that the applicant would have had to have met. For simplicity, if it were a regular County project that only had our requirements for affordable housing, the applicant would have had to provide 2.4 units of affordable housing, and the .4 is usually considered a fraction for a residual fee. That's calculated based on a formula pursuant to our regulations resulting in a dollar amount that the applicant would have to submit to the County. Under this particular situation, the applicant, since they're already providing three additional units for a total of five affordable units within this project, they are seeking a waiver of that residual fee because of their commitment to provide additional units for affordable housing within this project, a point of view - it's my opinion that this is a reasonable request and certainly the ultimate decision is up to the policy makers, to you guys, to determine whether or not that waive can be granted and certainly that could be discussed with the applicant. But I believe that this is something that's reasonable.

CHAIRMAN SULLIVAN: Commissioner Vigil.

COMMISSIONER VIGIL: Why is the City requiring that the applicant comply with their affordable housing ordinance?

MR. SILL: Pursuant to the - my understanding and anybody here can correct me - my understanding is that their water and wastewater extension outside of the city limits there's a provision in a paragraph in there that they must meet the requirements of the Santa Fe HOMES program. I believe that's Section 14.8.1.1 in their particular ordinance. I believe it's - I don't have that in front of me but I could certainly go and get it to you and read it to you guys. But I believe paragraph i in there states that any request for water and wastewater extension you have to meet the requirements of the Santa Fe HOMES program.

COMMISSIONER VIGIL: Okay. My next question, I guess to Steve Ross. Steve, this seems like a joint jurisdiction, really, application that's coming before us. I guess my concern would be, even though there's a proposed joint administration where the County administers a certain amount of units and the City administers a certain amount of units, it tends to complicate it to the extent that their requirements when it comes to resale and those kinds of things are different than ours.

What are we doing here? Creating a joint jurisdiction or what?

MR. ROSS: Mr. Chair, Commissioner Vigil, under normal circumstances I would have thought that it would be almost impossible to comply with both the City and the County affordable housing ordinances in the same development, but really the only way it can be done where the applicant is willing to comply with both. The trickiest part of it all is the administration as Mr. Sill says. The County requirements are much different from the City requirements, particularly with respect to the affordability liens and things like that.

Those run in favor of the County. The City has different instruments that run in favor of the City. So the only way a multi-jurisdictional problem like this can be solved is if, as Mr. Sill has described, some of the houses are administered completely under the City program and others are administered under the County program. I'm going to alert Mr. Katz of these issues after this case is resolved and see if there's a way for us to get together and agree how these kinds of cases are to be resolved in the future. It's not really a situation where the City is exercising jurisdiction in the county. It's really a situation of an agreement, or in the City's case, an ordinance that governs the extension of water and wastewater services in an area that's in the county.

So it's not really a multi-jurisdictional question because they're not exercising jurisdiction per se in the county, but a permissive activity, that is providing water and wastewater service, is subject to those unusual conditions. So it's a tough problem.

COMMISSIONER VIGIL: It is, and it seems to me that the enforcement component is difficult also to comprehend with regard to how does a city enforce an ordinance that's not within their municipal boundaries. So that's questionable to me. But I appreciate the work you put on it and I have other questions with regard to this.

CHAIRMAN SULLIVAN: Any other questions of the Board on the affordable housing issue right now? Okay, What are your other questions, Commissioner?

COMMISSIONER VIGIL: They probably have more to do with the water and perhaps - I don't know, John, if you want to address those. I know their agent is here.

CHAIRMAN SULLIVAN: You want to have Mr. Siebert discuss those?

COMMISSIONER VIGIL: We still have part of the public hearing to go on. Yes, let's continue the public hearing.

CHAIRMAN SULLIVAN: Well, we still have the applicant to make a presentation.

COMMISSIONER VIGIL: I want to hear that. John, I'll hold off.

CHAIRMAN SULLIVAN: We'll wait on those questions, and I had a water question as well. So would the applicant like to step forward.

[Duly sworn, Jim Siebert testified as follows:]

JIM SIEBERT: Mr. Chair and Commissioners, my name is Jim Siebert. My address is 915 Mercer, Santa Fe. Let me begin with an aerial photograph of this property, which is upside down. This is Agua Fria Street here. The Santa Fe River is on the north

side here and this particular tract sits within the black line here. As you can see, what you have is on the side to the east are legal non-conforming commercial uses. There's a mobile home park here. The Montano excavating and sand and gravel and concrete is here. There's a vacant residential strip that's right adjacent to it that's owned by another party, and then it's residential from that point to the west.

We actually began this project about two years ago and we've had several meetings with the community association, the Agua Fria Association and with immediate neighbors. And during that process what happened is the Agua Fria plan was adopted and the Agua Fria zoning was adopted. So what we did is we kind of backtracked a little, took a look at the project and reconfigured it to fit with the Agua Fria plan and the Agua Fria ordinance, which this does.

Once again, we have Agua Fria Road down here, Santa Fe River here, John Michael talked about the trailhead, what's being proposed is that the owner of this property would dedicate a tract to Santa Fe County for a trailhead that would go on to the - there's a bicycle and walking path that's proposed along the Santa Fe River. So you'd have a connection and a place where you could get on to the path at that particular point.

There are 15 lots with residential lots within the project. There's two commercial lots and the idea of these commercial lots that would have small units on the order of like 900 square feet, would be for small-scale commercial that would be consistent with Agua Fria and consistent with the Agua Fria plan.

As mentioned earlier, the project is served by City water and City sewer. We originally approached the Agua Fria Water Association to provide service. It proved out that that wasn't really a viable option at this time. There was a concern about the proximity to some existing commercial development or legal non-conforming commercial development on the east side. If you'll notice, what we've done is we've attempted to buffer that by putting both the road and the park adjacent to those particular uses.

With regard to affordable housing, I'm not sure that we still all have the same understanding but the County's requirement is 2.4 affordable housing units. The .4 is something that would normally be paid for in cash in lieu of. In this particular case because we're providing five units, we're asking that that requirement be waived because we're considerably exceeding the affordable housing requirements for the County.

This project did receive approval from the Agua Fria Development Review Committee and we're in agreement with all conditions as stated by staff.

CHAIRMAN SULLIVAN: Commissioner Vigil.

COMMISSIONER VIGIL: I still want to hear more from the public.

CHAIRMAN SULLIVAN: Oh, okay. Let me ask a question then, Jim. It says on the water, one of the conditions is that once Agua Fria Community Water System has the capacity to serve, the applicant will disconnect from the City utility and connect to the Agua Fria Water System. Why would they want to do that?

MR. SIEBERT: It was simply a condition that was imposed by staff, and that was something that occurred relatively recently.

CHAIRMAN SULLIVAN: Let me ask Shelley or anybody, it seems that once you're hooked up to the City, why would you go to all the problems of hooking up to Agua Fria?

MS. COBAU: Mr. Chair, members of the Commission, after a great deal of discussion with both the Agua Fria Community Water System, the applicant, members of the staff, we felt that this was a viable solution. The Agua Fria Community Water System is going to be doing a considerable improvement to their system in the near future. This is a master plan approval only. We don't know when this project may come forward for preliminary and final development plan, and we wanted to underline the point that there is another water system there that is likely to be able to serve this site at some point, perhaps before they're ready to go to construction. So we felt that would be an important condition to add.

CHAIRMAN SULLIVAN: So is your thought in writing this condition that if this occurs prior to construction that the applicant would be required to connect to Agua Fria?

MS. COBAU: Commissioner Sullivan, no. We would like the project to connect to the Agua Fria Community Water System when the community water system is able to provide service. There was some concern about City water in the village. When this went to the Agua Fria Committee, they were very concerned about this project being connected up to City water and this was done after a great deal of discussion amongst staff. We felt that this was a viable means of showing support for the Agua Fria Community Water System and disconnecting from the City's system where the City would no longer have any jurisdiction over this property in the Traditional Historic Community of Agua Fria.

CHAIRMAN SULLIVAN: So they thought this was a foot in the door or something and they were concerned that doing this would somehow subject Agua Fria to the City.

MS. COBAU: Mr. Chair, I believe that's correct.

CHAIRMAN SULLIVAN: Okay. And the other question I had, I still have a concern for that because when you switch from one water system to another, that's a cost. Someone has got to bear that cost and I assume it's going to be the homeowners, or how do you enforce it. Let's say that happens five years from now. Do you go door to door and collect money or how do you do that?

MS. COBAU: The Agua Fria Community Water System has a line in very close proximity to this project. The cost to connect to their system once they're able to upgrade their distribution and their delivery system would be marginal, I would think. The water - their line is there in Agua Fria, very close proximity to this project.

CHAIRMAN SULLIVAN: But someone would have to build the line and someone would have to make the connections and the way our condition says the applicant - well, the applicant once he's sold the lots is going to be gone. And I'm just concerned, how do you have an enforcement for that condition?

MS. COBAU: That's something that we would require that the applicant include in their subdivision disclosure statement and that would be a cost that would be borne by the homeowners association at some point in the future.

CHAIRMAN SULLIVAN: Oh, okay. Commissioner Vigil, your comment?

COMMISSIONER VIGIL: Shelley, I need some clarification, because my understanding is that the Agua Fria Water Association was not not in a position to provide water delivery, but that the County required a shut-down of the system in order for them to do a geo-hydro for a certain amount of time, and the system, being a small but solid water system really could not accommodate that request because it would mean that all of their customers would be without water for a certain amount of time. And that is the barrier that really created the opportunity for this water association to be the water delivery provider for this project. Is that not correct?

MS. COBAU: There's a long story that goes along with that, Mr. Chair, Commissioner Vigil. The applicant originally approached the Agua Fria Community Water System for water for this site, because all they have to provide at master plan is they have to name their source and prove water for the first sustainable phase of this development. They had a ready, willing and able to serve letter from the Agua Fria Community Water System which was later retracted, based on our Code criteria which would require the Agua Fria Community Water System to provide a 96-hour pump test, which in order to do that it would have to shut down their system.

We've had four or five meetings with the Agua Fria Community Water System, people who run that water system, and in the staff report it outlines on page 3, there's some bullet points regarding water and they have conveyed to us that they're not able to provide fire protection for this site. They can't maintain the delivery to provide fire protection so even if the site - this development at this time were to connect for potable water they would still have to connect to the City for fire protection.

The Agua Fria Community Water System has recently done a study and that study identifies needs for upgrades to their system for which they have \$2.6 million in funding needs and they have \$2.3 million that was allocated by the state legislature. They can't cease water deliveries to customers for the 96-hour pump test so they can't establish the 100-year water supply at this time for the development. In our staff report we cite that as new wells are drilled pump tests will be performed on the new and existing wells which may then be able to address our Code criteria to prove 100-year water supply. So this may all happen before this goes to final development plan. So we're hoping that they're actually able to connect to Agua Fria water once Agua Fria is able to drill a new well. I think they're very close to being able to do that.

COMMISSIONER VIGIL: It seems to me that is a viable alternative. I think there are representatives from the Agua Fria Water Association here that I'd like to hear from. One of the issues that we're dealing with the City now is that there are current residents there that are hooked up to the wastewater for this sewage delivery system, and what happens when they aren't in the jurisdiction of the city limits is rate fees get increased

without notices, rate fees get increased across the board. There are some people who pay for a monthly hookup but aren't actually utilizing the lines. So it does create jurisdictional problems. It would make sense to me that there should be a real clear indication of delivery there.

And I also am conflicted by the fact that the City was willing to hook up to a development when they rejected a community center. It shows mixed priorities in my mind. Anyway, Mr. Chair, I'm ready to listen.

CHAIRMAN SULLIVAN: Okay. I'll get back to --

KARL SOMMER: Mr. Chair, may I add some information to the water that's relevant to the criteria that was just mentioned?

CHAIRMAN SULLIVAN: Okay. Do you want to give your name and address and be sworn in please.

[Duly sworn, Karl Sommer testified as follows:]

MR. SOMMER: My name is Karl Sommer. My mailing address is Post Office Box 2046, Santa Fe, New Mexico. Mr. Chair, members of the Commission, Commissioner Vigil, one of the crucial items that is in the staff report, and I believe it is central to the issue of water supply. If the Commission would look at the fourth bullet point on page 3, right now, the Agua Fria water system has a contract with the City of Santa Fe. That means that the water is coming from the City's system, up to 50 percent of its total system needs. At this point, hydrologically, this system has not proved to be a 100-year supply for this development or other developments, and as I understand, and Ms. Torres is here, she can explain, this system has not proven a 100-year supply based on its existing water rights, so significant improvements, both legally and information hydrologically has to be produced. So the term about their ability to do it as a viable option is it simply is not viable under the County's requirements for a water supply.

If somebody was coming in for a two-lot subdivision or a three-lot subdivision they'd have to show a 100-year water supply. They'd have to have a system that showed a 100-year water supply. This Commission is dealing with this issue in Sunlit Hills. I have several clients out there who want to do lot splits and they're on the Sunlit Hills water system but they cannot come in and do a lot split because that system cannot show a 100-year water supply. It has limited wells and it has limited water rights. And until they can demonstrate that to the County, the division of land has been halted out there. And I'm not complaining, I'm saying that's just what the law is. It applies equally here because that's what the County requires.

So its viability at this point has not been demonstrated to the County. We would love for them to provide water for us. They simply can't. They simply are not in a position to do that for us.

COMMISSIONER VIGIL: Let me just say, and Mr. Sommer, because I'm still stuck with the fact that the reason why they haven't been able to prove the 100-year water supply is not because of anything else other than they could not shut the pumps down to conduct the test.

MR. SOMMER: I don't believe that's the case. I think that they have significant other problems.

COMMISSIONER VIGIL: Karen, could you respond to that?

KAREN TORRES (County Hydrologist): Good evening, Commissioners. I'm very familiar with the Agua Fria water system. When I worked for the State I permitted their new well and I'm familiar with their water rights portfolio that they do have. When I spoke to Gil Tercero - gosh, a year and a half ago now, if I can recall the conversation we had, it was mostly regarding their water rights that I had a concern about. They have one of these permits - it's a declining permit, where they can utilize so much water and then at a certain amount of time the water right gets reduced dramatically.

So currently they have sufficient water rights to cover their current needs, which is great. In perpetuity. It's this other permit that they have which goes away I believe in 2017, though I might be wrong.

COMMISSIONER MONTOYA: 2027.

MS. TORRES: Is it 27? Okay. 2027. I knew there was a seven in there. Which was of a little concern only because the County Code has such stringent water requirements for water rights, as well as actual wet water supply, and requiring it for 100 years. And so we discussed strategies of what they can do to acquire water rights. And I think that concerned them and that's why there was that issue. And then of course there's other issues of demonstrating availability, and we also discussed with them - there might be an alternative to doing a 96-hour pump test. We might be able to find another well in the area that can demonstrate that.

COMMISSIONER VIGIL: Okay.

MS. TORRES: I hope that explains a little bit.

COMMISSIONER VIGIL: It seems to me that they have 42.5 acre-feet in adjudicated water rights. We have allocated them some of the Buckman Direct Diversion and the only questionable amount of water rights are 22.5 acre-feet which will expire in 2027, and those are the ones that come from the City, I believe. Or no.

MS. TORRES: They have - I believe it's the 22, and I'm so sorry. I don't have their file in front of me. That part goes away in 2027. They do have a contract with the City that does expire right around the same time, and also they have the ability to obtain water from the County once Buckman Direct Diversion is on line, but that's a few years down the road as well. This is all just information that sort of trickled in. It hasn't all been assembled for staff to review as a plan to go forward, demonstrating their water.

COMMISSIONER VIGIL: Okay, and they are also are going through some adjudications I believe right now.

MS. TORRES: The Frenchy's and they have some other things going on too.

COMMISSIONER VIGIL: Okay. Thank you, Karen. Appreciate it.

CHAIRMAN SULLIVAN: Mr. Sommer, were you finished regarding the water issue?

MR. SOMMER: I was, Mr. Chair, I just wanted to point that out.

CHAIRMAN SULLIVAN: Okay. Commissioner Montoya.

COMMISSIONER MONTOYA: So Karen, based on what you just said, it sounds like the applicant is going to a more secure source of obtaining water for the development. Is that correct?

MS. TORRES: My understanding was they did have an agreement from Agua Fria and that was withdrawn. And so then the applicant sought service from the City.

COMMISSIONER MONTOYA: Oh, okay. So the Agua Fria Water Association -

MS. TORRES: If I'm wrong, please correct me, but that's my understanding.

COMMISSIONER MONTOYA: Okay. Thank you

CHAIRMAN SULLIVAN: Thank you, Karen. Stick around. Mr. Siebert, one other question before we go to the public hearing. I'm a little confused about the so-called studio units and also the parking down there. There's 15 parking spaces in the studio units. Are the studio units live-work or are the studio units just commercial offices?

MR. SIEBERT: They're pure commercial; they are not live-work.

CHAIRMAN SULLIVAN: There's no live-work component to those?

MR. SIEBERT: No, there's not.

CHAIRMAN SULLIVAN: Okay. That wasn't clear to me. Because it said there's 15 spaces and those will be available for the studio units and two parking spaces. So that's about two spaces per studio unit. Is that what you have?

MR. SIEBERT: I know we meet the County parking - actually, we have 27 spaces. I think maybe you're looking - we have 15 on one lot and a certain number on the other. The total is 27.

CHAIRMAN SULLIVAN: Oh, okay. Because it says in the staff report the commercial lot includes a parking area serving the studio units. The parking area includes 15 regular parking spaces and two handicap spaces.

MR. SIEBERT: Actually, it's 27.

CHAIRMAN SULLIVAN: It's 27 instead of 17.

MR. SIEBERT: Right.

CHAIRMAN SULLIVAN: Okay. Where are your - which lots are designated for the affordable housing?

MR. SIEBERT: Actually, they're designated on this plan by A's. It's lot #5, lot #15, lot #14, and lot #12. There's one other that we added later and it's lot #13 as I recall.

CHAIRMAN SULLIVAN: And what is that blue thing in the middle of the plaza?

MR. SIEBERT: These are ponds.

CHAIRMAN SULLIVAN: Retention ponds?

MR. SIEBERT: Correct. Here, here, here and here.

CHAIRMAN SULLIVAN: Okay. All right. Thank you. Any other questions for the applicant? All right, this is a public hearing.

MR. SOMMER: I just had one brief thing to add as part of our presentation, if I may.

CHAIRMAN SULLIVAN: Go ahead.

MR. SOMMER: Thank you very much. Members of the Commission, we're here tonight because this Board and this community has undertaken various steps which guide this kind of application to this point. Let me be specific. As you all are aware, the Agua Fria Village became a traditional village under the statute so they could avoid annexation by the City, so that the City couldn't just swallow them up from a zoning standpoint and they would have no control or very little representation in how their future would look. The Traditional Village Statute protected that. They took advantage of that; it was adopted, and it was adopted by the Commission.

The effect of that was to make the County Code effective in this area. That wasn't the end of the story for this Commission. This Commission did the very next step which is to say this community should plan itself and thereby come up with a development master plan for this community, and then provide an ordinance that this Commission would consider and talk about and eventually adopt. That's what's happened here. This community took control of its destiny with the help of this Commission. It protected itself from annexation by the City. It planned and zoned its property so that it would control how it works.

The Agua Fria Development Review Committee looked at this plan for compliance and said unanimously it complies with what we've said we want. This staff has looked at it and said for a long time now it has complied and it does comply. The other components of this plan, which are affordable housing, have been complied with and met to the letter of the law. We do not see this as a problem for administration. This Board approved the Turquoise Trail Subdivision. It has two affordable housing components which are complied with - one of the City's and one of the County's. And in that subdivision the County provides neither water nor sewer but it does the zoning. The water and sewer are provided by the City. So it's now something out of the ordinary. It hasn't produced a nightmare of administration. And it's viable in this circumstance because you'll have two separate agreements which are administered pretty clearly under the regulations.

I'd just like to say this because much has been said out in the hallways, discussion around this, that the community needed to be heard on this. Well, this applicant has gone to the community. This community has spoken and it's spoken loudly, one in controlling the village, the second in adopting an ordinance and bringing an ordinance after much work to this Commission, which was adopted. This property, Mr. Tavelli and his brother, whose family has been in this community, a part of this community for five generations, are complying with what the community has said.

Now, did they go to the Agua Fria Water Association? They did. It simply is not a viable option for water. The only other opportunity is to provide City water and City

sewer, which environmentally makes sense. You want City water and City sewer if it can't be otherwise provided. You do not want groundwater. You do not want septic tanks. You do not want the perpetuation of what I think this Commission has recognized as environmentally unsound development.

The other thing that is important about this plan is it reflects much of this Commission's policies, which are mixed-use developments. That residential development shouldn't be this homogenous type of development where people have to leave to work. There have to be employment opportunities in order for a community to be viable. This plan reflects, the zoning reflects, and this application reflects that opportunity. With that, I'd like to urge this Commission to approve this master plan. It has a long way to go in terms of development plans and subdivision and the like before we're there. This is really a first step. Thank you.

CHAIRMAN SULLIVAN: Okay. Now we'll go to the public hearing. Are there any persons in the audience who would like to come forward and speak, either in favor or in opposition? Come forward, sir.

[Duly sworn, Lee Romero testified as follows:]

LEE ROMERO: My name is Lee Romero, also known as Elisardo M. Romero. Just two points of clarification so that we are all on the same board here. When Mr. Siebert announced his non-conforming businesses, I felt a little hurt; he left me out. He mentioned the trailer court across the street. He mentioned Mr. Montano, and then he said a non-conforming business to the east of me. That's me. L & L Portable Toilets. I want that on the record. Also L & L Waste Services. That's just a clarification.

Secondly, in 1978 or '79, I was the president of the Agua Fria Water Association. When PNM was planning the trunk line to be able to loop their system, we held a meeting with the Agua Fria Water Association and I believe some of the County staff was there at the time and representatives from PNM. There again PNM tried to convince us that they were real good to us, that they were going to give us five free fire protection hydrants, when all the time in the construction industry, and they were going to put their line, it's by law that they have to put fire protection every so-many feet. So they weren't really giving us anything.

Secondly, we signed a pact saying that PNM would not connect nobody in the village, because that was just a trunk line that they were doing for revamping their [inaudible] I don't know if the Agua Fria Community Water System has been approached for those minutes, because PNM sold to the City. I don't know if the contract stands, if it holds any water right now, but I thought I'd get up here and clarify those things because we've lived there all my life and I'm very proud of my business and we don't have to go around denying who's next to me. It's L & L Portable Toilets. Thank you.

CHAIRMAN SULLIVAN: Thank you, Mr. Romero. Next speaker please.

[Duly sworn, Justin Young testified as follows:]

JUSTIN YOUNG: My name is Justin Young and I live and operate my business at 3957 Agua Fria. I live right next to the property in question and my property is

the other non-conforming commercial use that's next to this property. I've been in support of the applicant to subdivide his property and to develop it in residential uses and I think that he should work within the Agua Fria Community Water System for getting his water needs. I understand that they had given him 15 residential hookups and they were unable to give him commercial hookups, and that's why he went to the City and obtained those commercial hookups.

But I oppose him going to the City for the water and I oppose commercial development that's for speculation that doesn't have actual users that we can talk to and see what kind of businesses that they're going to run. That's it.

CHAIRMAN SULLIVAN: All right. Thank you, Mr. Young. With regard to Mr. Young's question. Shelley, there is a list of uses that are permitted under this master plan zoning, is that correct?

MS. COBAU: Mr. Chair, members of the Commission, this type of mixed-use development is specifically permitted under the Agua Fria ordinance. The applicant has stated that these would be gallery type uses in these studios and – I don't know. Maybe John Michael, you can answer this. Is there a specific use list on their master plan?

CHAIRMAN SULLIVAN: I think there probably is. John Michael, can you give us just a few examples of what can be located in those commercial units?

COMMISSIONER VIGIL: I think the planner, Robert Griego is here. He might even be able to articulate them without even referencing them because I know he had the opportunity to discuss this with the community quite a bit.

CHAIRMAN SULLIVAN: Mr. Griego.

ROBERT GRIEGO (Planner): Mr. Chair, Commissioners, in regard to the Agua Fria Zoning District Ordinance, there's a use table there that identifies uses. They're either allowed, permitted, conditional or special uses for non-residential and residential uses. So each use should have to come either to the Agua Fria Development Review Committee or to the Board for approval.

CHAIRMAN SULLIVAN: What are some examples of the permitted uses?

MR. GRIEGO: A permitted use would be a – a conditional use, meaning it would need to get approval by the Agua Fria Development Review Committee would be an art gallery. An appliance repairs place would need a special use. That would mean the Board would need to approve them. Convenience store is a special use. Exercise or dance studio is a conditional use that the use table identified.

CHAIRMAN SULLIVAN: Conditional means that just the committee approves it. Special means the Board of County Commissioners approves it.

MR. GRIEGO: That's correct.

CHAIRMAN SULLIVAN: What about any examples of ones that wouldn't require either approval, that run with the land?

MR. GRIEGO: Permitted uses would be – administrative approvals would be agricultural uses, agriculture, grazing, residential uses. That's it.

CHAIRMAN SULLIVAN: Okay, so what you're saying is that anything

other than a residential or agricultural use would have to go before the community, through the Agua Fria Development Review Committee, and if it's a special use it would then come to the Board of County Commissioners.

MR. GRIEGO: That's correct, Mr. Chair.

CHAIRMAN SULLIVAN: All right. That helps clarify that for me. John Michael, did you have anything to add?

MR. SALAZAR: Mr. Chair, I have the list of uses that they're proposing. One is practitioners of healing arts, massage and physical therapy, artists, limited to those uses compatible with a residential setting, professional offices such as attorneys, consultants insurance agents and other small-scale commercial uses that do not create substantial volumes of traffic and are consistent with the residential environment of the project.

CHAIRMAN SULLIVAN: Okay, but we're not - this approval if the Board approves this master plan doesn't limit it to those uses, right?

MR. SALAZAR: Right.

CHAIRMAN SULLIVAN: So they can - I want to make that clear. That's what they're kind of dreaming might happen, but in point of fact, it could be an Allsup, and if so, it would have to go both to the Agua Fria Review Committee and also to the Board of County Commissioners.

MR. SALAZAR: Right, Mr. Chair.

CHAIRMAN SULLIVAN: So everything that they ultimately do propose, other than residential, if they were to make that residential, which would require a change in the master plan, would have to be reviewed by the community.

MR. SALAZAR: That's correct.

CHAIRMAN SULLIVAN: Okay. I just wanted to make sure I understand that. Thanks.

[Duly sworn, Frank Romero testified as follows:]

FRANK ROMERO: My name is Frank Romero and my address is 14 Calle Enrique, Santa Fe, New Mexico. First of all, I think I'd like to clarify a little bit of what Mr. Romero said about that pact that they made. I think the County got involved and got money from the feds. I think the agreement was made that the City could bring their trunk line in and they could provide Agua Fria with emergency water if our well went down or whatever, but what I believe, and I could be wrong, but they specified that the City could not hook up and service anybody in the Agua Fria Village due to the fact that they were using the funds from those hookups to pay back the federal government. That I do remember and I would like to ask you guys if possible to do a further investigation on this because that would break the camel's back right there, to be honest with you.

They would not be able to service any water unless you come up with some kind of loophole when the City bought it, that they won't honor that from PNM, but I would like to ask the feds their opinion on that contract.

Second of all, ever since this project started these guys have been having backdoor

meetings. It's not a community thing. We've asked them to notify the community. We even gave them suggestions on how to do it, but nothing's been done. They've also said we're opposing it because we're L & L. We also asked them how are we going to prevent all these people from suing us for the odor or nuisance or whatever. We really didn't get any straight answers. They sell, well, have your attorney write something up. Well, nobody's actually contacted our attorney at all, for anything like that. They've never come forward to even try to work with the people, to be honest with you. They may be complying with the County [inaudible] but affordable housing, I've asked them, where's your house going to be? Come live with us. They're going to come, clutter this little piece of land then they're going to let us deal with it for the rest of our lives. We've been there a long time and never needed anybody other than the County to come protect us. That's the reason they gave us a historical variance. That's why they gave us all these little committees.

Now if we go above and beyond, these people are just going around and round. We've asked them to lower the density. Agua Fria Village Water Association gave them 15 hookups. No, they want the whole enchilada. And I think you guys need to consider that one little pause, and I think that I'd like to ask you to table it until we can further - call the feds and ask them if we can get a copy of that and bring it to the attention, see if it's going to be honored or not. Since the City bought the system, I don't know if there's any kind of clauses in there that [inaudible] or something like that. But that's all I've got to say.

CHAIRMAN SULLIVAN: Thank you, Mr. Romero.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Steve, can you clarify, and I had that question earlier, based on Lee Romero's comment. In terms of the sale from PNM to Sangre de Cristo or however that transaction occurred, what if any restrictions, based on previous agreements would there be through the acquisition of another party of the system?

MR. ROSS: Mr. Chair, Commissioner Montoya, I'm sorry. I never looked at those agreements so I don't know what conditions the City may have assumed or what sort of liabilities they might have assumed. I've not looked at those.

COMMISSIONER MONTOYA: Okay. If you can answer that question -

MR. SOMMER: That agreement that they're talking about with the San Juan/Chama diversion and the extension of water to the City through PNM's acquisition of those rights under the San Juan/Chama contract, you all have been dealing with that for many, many years. But let me tell you what is in place today with the Agua Fria water system, the one that Mr. Romero was talking about, that's a contract with the City to provide 50 percent of its water needs, right now through a master meter. Gerry Peters' project, part of this traditional village, is served by City water and City sewer, right now, and that's the rental housing for senior citizens on the corner of Henry Lynch, in that area. City water, City sewer in this village, in this district.

The contract that you're talking about with the City serves up to 50 percent of their needs today. That's not emergency needs; that's their needs today. So provisions of a contract from 1978 to 1991, I remember having to deal with this because when we sued the City for refusing to provide water to Rancho Viejo, which was the inception of the County water company, that contract came into play. So I have read that agreement and it does not control. It doesn't have any force and effect today. It's been superceded by many, many agreements between the City and the County thus far. So I think it's a red herring for us. And what it is is, like I said, we're not averse to taking water from the system if that's what they'd like us to do. The unfortunate thing is this system isn't available to provide water - not to us, not to anybody who needs a 100-year supply. It's just that simple and I wish it were otherwise and the controversy might go away. Thank you.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: I'm done.

CHAIRMAN SULLIVAN: Commissioner Vigil.

COMMISSIONER VIGIL: I'm not sure who to pose this to because this is part of the problem we have when we're trying to work with resources and cross-jurisdictions. The trunk line for that area, I guess that's what's been referenced when we just heard the testimony, when PNM originally had that, and I'm hearing testimony that that trunk line may have been originally paid for by the feds, yet I know that there is water extension lines there that have been provided for to that community by the state. And I think that that infrastructure actually was built, some by the City and of course now the County has taken on a lot of those line and sewer extensions. But those dollars for some of those trunk lines actually came from the state.

So I guess what I would need to know is what is the closest hookup for this development? Is it a trunk line that belongs to the City that came from dollars from the state or from dollars from the federal government? Do you have that answer, Robert?

MR. GRIEGO: Commissioner Vigil, I don't have the whole part of the answer but the part of the answer that I can do is as part of the planning process, what we did is we looked at where the lines were for both the City and for the Agua Fria Community Water System and they both go in front of this property along the Agua Fria.

COMMISSIONER VIGIL: So there's two lines?

MR. GRIEGO: Yes.

COMMISSIONER VIGIL: Okay. Thank you, Robert.

CHAIRMAN SULLIVAN: Okay. Additional comments from the public.

[Duly sworn, William Mee testified as follows:]

WILLIAM MEE: My name's William Mee. I'm from 2073 Camino Samuel Montoya in the Agua Fria Village. And I'm wearing a couple of hats today. One is as an AFDRC member. I know that in your packet it says that the AFDRC, at its August 1st meeting had a unanimous vote to approve the project, and I think it sounds much more favorable than the conditions that we had placed upon the applicant at the time. I'd like you to refer to Exhibit F, page 8, of the AFDRC meeting minutes of June 6, 2007. This is

the meeting that the project was actually tabled.

If you look at the third to the last paragraph, the second sentence, it says Member Mee seconded and encouraged the applicant to address neighborhood opposition by holding a meeting during the interim with the Agua Fria Village Association. And so that became a condition on that tabling. But the applicant did not meet with the Agua Fria Village Association in that interim period.

Then also in Exhibit H, which is page 5 of the Agua Fria Development Review Committee meeting minutes of August 1, 2007, second to the last paragraph, Member Mee said that he was disappointed the developer did not conduct any community meetings since last month's tabling of this case.

Then going to page 7, second paragraph, also in Exhibit H. Member Mee proposed the following condition, #11. The applicant is directed to routinely meet with the community and business entities as they proceed to final development plan approval in accordance with Section 10.9 of the Agua Fria land use code, meaning that the Agua Fria Village Association, Agua Fria Community Water System, and any businesses in the area should be approached. And the applicant has failed to do that.

There was quite a bit of opposition to the project at the June 6th meeting and the other thing that has happened is the applicant has tabled the case a couple of times and when that opposition comes out to the project, and then tonight, when there's not that much opposition to it, they proceed with the case. So I'm not sure exactly what the applicant is afraid of in dealing with the community, but I think it really calls into question the whole project.

We've asked to see a draft of the homeowners association bylaws or the restrictions that would be placed on the property that would enforce the live-work/home occupation situation, because the subdivision's intent of being a good neighbor is only as good as its written word. Unless we have seen some of these restrictions or homeowner association bylaws we can't know what kind of tenants or homeowners they're going to have in this area. There's quite a bit of opposition in the Village Association, that's my second hat, is president of the Agua Fria Village Association. There's quite a bit of opposition to the project because of those commercial projects. They're not sure exactly what kinds of uses might go in.

Another thing that came up is with the sudden drop in house prices and the evaporation of a lot of mortgage funds, what is the financial viability of the project right now? Will they be able to finish this whole project, given the housing market that we have in this country. I know that their affordable housing levels were at \$97,000 to \$194,000, and is that realistic, given the collapse in the housing market? Wouldn't they have to be a lot lower? It's not that you go to a lender and you sign up and you don't have to have any credit. The federal government is cracking down on mortgage loans. Will people of low income be able to afford these houses at those prices?

I really am sorry that there's not a representative from the Agua Fria Community Water System. I think it's as Justin Young stated. They did give the 15 hookups but they

couldn't serve the two commercial lots because of some issues that they have with commercial properties, mainly like that Montano's cement plant. They can't serve a commercial lot because if they did then an industrial use like that would be able to procure water from them. So they've never come up with a commercial policy for users. And they've just actually served them as a residential unit.

So the Agua Fria Community Water System is concerned that this is a precedent, that this would really be the first water service in the Traditional Historic Community area. I know that attorney Karl Sommer says that the senior project is and to some extent that's true, because there are no lines of the water association that run that far east to be able to serve that project. I think that the best recommendation for this Commission is to probably table this particular thing until we can have more input from the Agua Fria Community Water System, and from the community itself. It's pretty hard to get people out time after time when the applicant tables a case just because he knows that he can't win that night. But when there's not many people that come out - sure he can go forward with it in the dead of night. It's almost nine o'clock. But I think the community will really raise hell if this project goes through. Thank you.

CHAIRMAN SULLIVAN: Thank you, Mr. Mee.

COMMISSIONER VIGIL: Question.

CHAIRMAN SULLIVAN: Question, Mr. Mee, by Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Mee, was there anyone who was a part of the hearing process when this request for usage of water went before the City, that was there from the Village or from the water association?

MR. MEE: Not to my knowledge.

COMMISSIONER VIGIL: Okay. And it seems to me that part of what I'm reading into some of the minutes, at some level or at some point in time they required the County to reallocate some of its Buckman Direct Diversion allocation to the City for projects that they're approving for water usage outside the City limits, and I'm reading into that, just based on the fact that this project went before the Public Utilities Committee without a recommendation and then I guess, what we have proposed for us tonight is that the water delivery was approved based on the retrofit program, that no acre-feet of water were required to be transferred over to the City, which - I don't know. Maybe someone from the City needs to answer this. Isn't their standard policy a requirement to transfer water rights?

MR. MEE: Mr. Chair, Commissioner Vigil, I believe so, and I think that's part of the issue is the County maybe needs to look more into this provision for the water.

COMMISSIONER VIGIL: Okay. Thank you, Mr. Mee.

CHAIRMAN SULLIVAN: Okay. Are there any other - you'll get a chance to rebut. Are you raising your hand to speak?

[Duly sworn, Tom Tavelli testified as follows:]

TOM TAVELLI: My name is Tom Tavelli. I would just like for the record, this property goes back five generations. It came from my mother, from her mother, from

her great-grandmother, from my great-grandmother and my great-great-grandmother. I have met – I have been a member of the Agua Fria Village Association. There's not a single person here that hasn't met with me. I sat on the committee. Commissioner Vigil was at the meeting and it's in your notes. We went before not only the community but the Agua Fria Village Association. We have jumped through every hoop. We have met every time we've been told to do something. Every time they said to show up. We need a notice. We want you to meet. We have been there.

I have been a member of the Agua Fria Community Water System, our family has, and the Agua Fria Village Association for over 15 years. So the idea that we aren't part of the community, that we've never met with them – we are always available. Virginia recognizes me. They all recognize me. To say that we have not visited, that they haven't been aware of this project – we went to everyone that's here, long, long before – two and a half years ago. So we've tried everything we possibly could to be good neighbors, and what we've gotten is a continual please come again, we don't have enough information.

We want a fair process. That's all we're asking for. And we've complied. You can ask County staff. You can ask anybody. We've jumped through every hoop and we come back, but nobody just seems to want this because – I don't know why. We're giving five affordable houses. We're donating a park. It's mixed use. It's part of all this stuff. I don't understand what we haven't done. We've addressed every issue.

The idea that we haven't met with the Agua Fria Community Water System – we've met with them for years. That's all I have.

CHAIRMAN SULLIVAN: All right. Thank you, Mr. Tavelli. Just a minute, Mr. Sommer. Have you already spoken, sir? You get one shot around here. It's getting late. Is there anyone else who hasn't spoken who would like to speak at the public hearing? Sir, if your comment is very short, come on up. Make it short.

FRANK ROMERO: One thing I forgot to mention is they're asking for commercial status. That's a real big requisition because let's say that the project would go through and they grant them commercial status. Does that mean that the other hundred percent of the businesses in Agua Fria that are non-conforming can come real quick and apply for permanent commercial status. I think that would open a whole new avenue because then it's just going to blow it out of proportion. Right now it's non-conforming commercial and you guys have control. Open it to commercial, before you know it, across the street there'll be a strip mall. Quick. Won't take but a second. There's investors that are already talking about it. They're just waiting for this to go through so then we have to tackle that other one. This is what I heard through the village. I just want to let you guys know that they're applying for commercial status. That would open it up to the rest of us for permanent commercial status. And that will open it up.

CHAIRMAN SULLIVAN: Okay. Thank you, Mr. Romero. Okay, that will close the public hearing. We've got to have some limit here. Did you already speak? All right. One more comment. This is it. This is the last one. You get one minutes.

LEE ROMERO: I just want to make a comment on Mr. Sommer a while

ago said that Agua Fria depended on the City 50-50, but that's not true. The only reason that Agua Fria is getting water from the City - it's not getting water from the City; we're getting water from the Chama Diversion project. We're paying the City for the distribution of that water. We are not buying the City water. Thank you.

CHAIRMAN SULLIVAN: All right. Thank you, sir. Okay. That will close the public hearing and the applicant is entitled to a summary.

MR. SOMMER: I will take one minute, and it goes to the retro-fit program and the water policy on this. The City's program for retrofits that triggers water right when you are over ten acre-feet. This project is way below that, and that's why there is a retro-fit requirement, not a water rights requirement. The second thing is is that the City does not have a policy and cannot unilaterally impose on the County a policy of allocating San Juan/Chama water by deliveries that it chooses to make in the county. I've heard talk by Councilor Chavez and others about trying to implement that kind of policy, but the County doesn't have under its wheeling agreement or under its agreements with the federal government the ability to allocate San Juan/Chama water from the County's allocation because it chooses to make extensions in the county.

CHAIRMAN SULLIVAN: Okay. Mr. Siebert.

MR. SIEBERT: To clarify one particular issue that was raised was public notice. Between the point that the case was tabled by the Agua Fria Development Review Committee and its final action, we actually went back and held a public meeting where we noticed everybody within 200 feet by mail and posted it in the newspaper. Only one person showed up to that meeting and that was Lee Romero. It was regarded as a tabling. The tabling was a result of us trying to work out the differences of affordable housing over the last two to three months. It's nothing that we ever engendered ourselves.

CHAIRMAN SULLIVAN: Okay. That closes the hearing and the applicant presentation. We're back to the Commission for discussion. Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chair, I represent this district and it's always a difficult thing to do because I recognize Mr. Tavelli, I recognize residents in the neighborhood and I've been a part of the planning process for this. But I also, being a resident of Santa Fe know how much this area has had a disempowerment when it came to development. How difficult it's been for this area to re-empower themselves when it comes to development and how hard this community has tried to be a part of that empowerment process by building their water association, by being a part of their long and arduous planning process.

What is missing for me tonight is the Agua Fria Water Association. I've heard from the County and the experience that they've heard. I've heard from our hydrologist. But I now that this water association has just completed an engineering study, a very comprehensive engineering study that will be able to give them more predictability in terms of what they are capable of supporting in their own community in a traditional, historic, village. I do not believe it's good policy to borrow resources from other jurisdictions. I think the policy creates more conflict than it does resolution. But I recognize also the

problem that that creates for people who are wanting to move forward with development of property such as Mr. Tavelli's that have been with his family for many, many generations.

I do think there's more communications that can occur on this. I think Mr. Tavelli needs to assure the community that the commercial component is going to be within certain limitations, and I think that that's where he might be headed. It sounds like that's what he is, based on the suggestions that are there. I think that assurance is an integral component of the success of this development in this community, because this community, frankly, has been dumped on too much by commercial development.

And I think with that in mind, and the fact that we need to support water associations. That's part of our County policy. We need to be able to create a support system for those water associations who are viable and are able to move forward in their own strength. That is part of the comprehensive, countywide policy that has been discussed through our strategic planning process and I think continues to need to be.

With that, and with the lack of knowledge I have from the water association, Mr. Chair, I'm going to recommend that we table this for one more hearing, and request that the Agua Fria Water Association be a part of this hearing process, that they give us their input with regard to what they're capability-is of supporting this project. And not having that, Mr. Chair, I think we're doing an injustice to this community without getting all of those points clarified. I move to table to the next use land use committee meeting.

CHAIRMAN SULLIVAN: Motion to table. Is there a second? Hearing no second, motion dies. What's the pleasure of the Commission?

COMMISSIONER MONTOYA: Mr. Chair, this is master plan approval and I think there's the concerns that have been stated by the individuals who are concerned about this certainly can be met throughout the evolution of this process. I think it's clearly stated under condition 12 that once the Agua Fria community water system has the capacity to serve the development, the applicant shall, not may or possibly - that they shall disconnect from the City utility and connect to the Agua Fria community water system.

The AFDRC did recommend approval, so that means from June to August there had been some progress in terms of the discussions that had been made to that point and again, this is master plan and it still has to come back for further approval from this body. So I would recommend approval of staff's recommendation for master plan along with the conditions, 1 through 12.

CHAIRMAN SULLIVAN: Is that a motion?

COMMISSIONER MONTOYA: Yes.

CHAIRMAN SULLIVAN: Second. Discussion? Those in favor say "aye".
Motion carries two and one not voting.

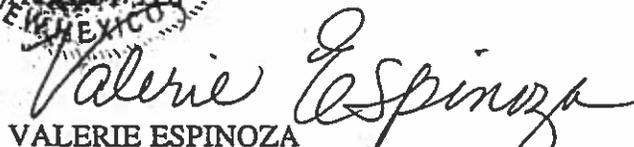
XV. ADJOURNMENT

Chairman Sullivan declared this meeting adjourned at 8:55 pm.



Approved by:


Board of County Commissioners
Jack Sullivan, Chairman


VALERIE ESPINOZA
SANTA FE COUNTY CLERK

Respectfully submitted:


Karen Farrell, Wordswork
227 E. Palace Avenue
Santa Fe, NM 87501

CHAIR HOLIAN: Okay. So we have a motion and a second to approve the variance in the Jytte Lokvig case with an added condition that neither piece of property will be sold for two years.

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

XCII. A. 4. BCC Case # MIS 06-5271 Tavelli Master Plan Extension. Michael A. Tavelli, Applicant, Requests a 24-Month Time Extension of the Previously Approved Tavelli Mixed-Use Subdivision Master Plan. The Property is Located North of Agua Fria Street, East of Lopez Lane, within Section 31, Township 17 North, Range 9 East, Commission District 2

VICKI LUCERO (Building & Development Manager): On January 8, 2008 the BCC granted master plan approval for a 17-lot mixed-use subdivision on 5.65 acres. The subdivision included 15 residential lots, two commercial lots, and an area dedicated to the County for a park trailhead. Article V, Section 5.2.7 of the County Land Development Code states, approval of a master plan shall be considered valid for a period of five years from the date of approval by the Board. Master plan approvals may be renewed and extended for additional two-year periods by the Board at the request of the developer.

The master plan for the Tavelli mixed-use subdivision will expire – and it should say January 8, 2013, which is today. The applicant is requesting the extension in order to allow additional time for an economic recovery to take effect that would make development of the subdivision financially feasible. The applicant also states that change in the affordable housing requirements may ultimately impact the final development plan of the Tavelli Subdivision and may require further review.

This application was submitted on November 5, 2012. Growth Management staff has reviewed this application for compliance with pertinent code requirements and find the project in compliance with County criteria for this type of request.

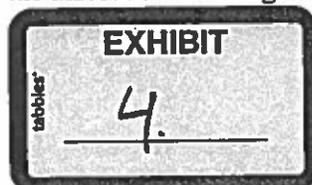
Staff recommendation is for approval of a two-year time extension of the approved master plan for the Tavelli Mixed-Use Subdivision. Madam Chair, I stand for questions.

CHAIR HOLIAN: Are there any questions of staff? Commissioner Chavez.

COMMISSIONER CHAVEZ: Yes, thank you. I have a letter here from a concerned resident who lives in the area. They're concerned not so much about the extension but have been led to believe that with this extension the density might change from what's being proposed to up to 26 units. Is that anywhere in their proposal?

MS. LUCERO: Madam Chair, Commissioner Chavez, their proposal has not changed from what was originally approved, so it would just be for the previous approval for the 17 lots total. If they wanted to change that they would have to submit an amended master plan.

COMMISSIONER CHAVEZ: So then the only other thing that might change the density would be the affordable housing component if they brought their



development forward, they would have to comply with the new affordable housing requirements. Would that increase the density?

MS. LUCERO: Madam Chair, Commissioner Chavez, I don't believe it would increase the density as a whole. It would just probably decrease the number of affordable units that would be required.

COMMISSIONER CHAVEZ: So I just want to note for the record that there is some concern about the density and the surrounding residents would hope that this would be compatible to the extent possible, compatible with the existing density and development in the area.

MS. LUCERO: Madam Chair, Commissioner Chavez, that's correct. It's as I mentioned, nothing's changing from the prior approval. It's just an extension.

CHAIR HOLIAN: Okay. Any further questions? Is the applicant here? Would you please come forward and be sworn in please?

[Duly sworn, Thomas M. Tavelli testified as follows:]

THOMAS M. TAVELLI: My name is Thomas M. Tavelli, and I'm here – my brother regrets that he had to travel and he's out of state on business, but I'm a partner in the project and I'm representing him and we're requesting a two-year extension. I would give you a little history, particularly you, Commissioner Chavez.

2012 marked the 100th year that that property has been in our family. We have probably the oldest deed. Certainly anyone in Agua Fria is welcome to come forward, but the deed that we have passed, it's all come down from my mother's side of the family, was signed by Woodrow Wilson in 1912. And we have further proof of the property in the territorial area by the Spanish. So we're a long, long-time residents of Agua Fria and I hope that you would approve our two-year extension.

CHAIR HOLIAN: Thank you, Mr. Tavelli. Are there any questions for the applicant? Commissioner Chavez.

COMMISSIONER CHAVEZ: No, I would just say that I appreciate your presentation and I didn't mean to be critical but just concerned about the increased density in the area and if you're sensitive to that then –

MR. TAVELLI: That's never even been a consideration. I don't know where they got that idea.

COMMISSIONER CHAVEZ: It's just that we get feedback from citizens and we have to share that and I just would be remiss if I didn't share that with you now and your intentions I think are good and you have the history and the background, but we still have to ask the questions.

MR. TAVELLI: Okay. Thank you.

CHAIR HOLIAN: Any other questions? This is a public hearing. Is there anybody here who would like to speak on this case, either in favor or in opposition. William, please come forward and please be sworn in and state your name and address for the record.

[Duly sworn, William Mee testified as follows:]

WILLIAM MEE: William Mee. I'm the president of the Agua Fria Village Association, and I sent a letter last month for the December 11th meeting and basically, it came to our knowledge that the circumstances of even this approval have changed quite a bit, that the applicant actually had a guarantee of water from the City of Santa Fe, and

right now, that City of Santa Fe waterline has actually been turned over to the Agua Fria Community Water Association. And so in order to get water for this subdivision they would have to apply to the community water association.

So if we approve it tonight there's no water for this subdivision. There were some other things that were done. Jim Siebert was the planner for the initial project and that's where the 26 lots came out. They were looking at a bunch of duplexes with live-work situations that would be living quarters above work studios and this type of thing.

The other thing was that Tom Tavelli was going to be the onsite manager of the properties, because that's something that he had worked out with the surrounding neighbors because they were afraid that you've got this subdivision going in. You've got all of these various live-work situations. Someone has to be in charge of that and so that's kind of what we had talked about. The other thing is that this particular plan was approved two months before our community plan was approved so it kind of – it didn't have to follow our community plan, which under the community plan it wouldn't really be eligible to be in this particular design or whatever. We do have the 17 lots but if they each have duplexes, we are having a much higher density than is being actually presented to you here tonight. And I don't know why the developer has let go of the planner and that type of thing. I'm not sure of all those details. But I would just like to maybe have the Village Association actually review the conditions and make sure that something that was done back in 2006 is basically current now in 2013.

CHAIR HOLIAN: Okay. Thank you, Mr. Mee. Is there anybody else here – I'll give you a chance to respond, Mr. Tavelli? Is there anybody else here who would like to speak about this case? Okay, seeing none, the public hearing is closed, and Mr. Tavelli would you like to respond?

MR. TAVELLI: With all due respect to Mr. Mee and our neighbors who we've tried to work with very, very hard during this whole process, there's also been a tremendous amount of misinformation which Mr. Chavez spoke to. None of them is true. Our plan has always been – we've never changed our plan. We've been through every review process there is. We went through when the Agua Fria Review Committee was here. We got a unanimous vote on that. We got a unanimous vote from the County Commission. The plan, you've got it in your file. None of that is true. It's exactly as we stated to the County.

And I don't know where these guys get this information. One of the examples of this is he mentioned that the plan had been approved before the Countywide approval for the Agua Fria Village Association was approved and that's not true. I sat on that committee and we were approved in 2008, two years after that thing was approved. So I don't know where this stuff comes from but it's not factual.

CHAIR HOLIAN: Okay. Thank you, Mr. Tavelli.

MR. TAVELLI: And I hope you will have Patricio speak on the water issue because that again is not factual. It's not an abandoned water line and it was not turned over to the Agua Fria water association. None of that's factual.

CHAIR HOLIAN: Are there any questions for staff or the applicant?
Commissioner Chavez.

COMMISSIONER CHAVEZ: Yes, I would like to have staff explain for the public here and for those listening what the mixed-use subdivision would entail, and then maybe staff could respond to the water availability.

MS. LUCERO: Madam Chair, Commissioner Chavez, the prior master plan was approved for 17 mixed-use lots. Fifteen of those lots will contain a residential dwelling unit on it, and then the two lots that are up along Agua Fria will be allowed to have commercial uses on there. I believe it was small-scale commercial uses such as office and small-scale retail that would be allowed within that designated area.

COMMISSIONER CHAVEZ: And the commercial lots, would they be the same size as the residential lots or would they be somewhat larger?

MS. LUCERO: Madam Chair, Commissioner Chavez, in looking at the site plan I'm not able to read the acreages but it appears that the commercial area is probably equivalent to a couple of the residential blocks, so they're probably about the same sizes as the residential lots.

COMMISSIONER CHAVEZ: So they would have to provide some parking.

MS. LUCERO: That's correct. And just for the record, once they choose to move forward with the application the commercial aspect of it will have to come back to the CDRC for review and approval under the current code.

COMMISSIONER CHAVEZ: Okay, and then the residential lots, are they able – are the lots large enough for them to do a primary residence and an accessory dwelling unit on those lots?

MS. LUCERO: Madam Chair, Commissioner Chavez, the lots are large enough, depending on the size of the residence, but most of them appear to be large enough for a main dwelling and an accessory structure.

COMMISSIONER CHAVEZ: And that would be allowable with the code in that general area.

MS. LUCERO: That's correct. An accessory structure, not a second dwelling unit but an accessory structure.

COMMISSIONER CHAVEZ: Not a dwelling unit. Okay. So that's the maximum that they would be able to increase the density on the individual residential lots.

MS. LUCERO: Madam Chair, Commissioner Chavez, each of the residential lots would be allowed one dwelling unit and then an accessory structure such as a garage or a shed or something of that sort. Not a second dwelling unit under the current code.

COMMISSIONER CHAVEZ: Okay. Let's talk about the height restrictions. Are there height restrictions on this development and if so what are they?

MS. LUCERO: Madam Chair, Commissioner Chavez, the height restrictions would follow what's in the current County code and the Agua Fria Ordinance, so the maximum height would actually be 24 feet.

COMMISSIONER CHAVEZ: And that's allowable throughout the area.

MS. LUCERO: That's correct.

COMMISSIONER CHAVEZ: So then just water, if staff could respond to the water.

PATRICIO GUERRERORTIZ (Utilities Director): Madam Chair, Commissioners, I'm here to answer questions regarding the water, but first I would like to explain what the situation is with the existing utility lines. In 2009 the County and the Agua Fria Mutual Domestic Association signed a JPA, joint powers agreement for improvements and for the management of those improvements after they were installed. A 12" line was installed under Agua Fria. A line that would serve or would bring water from BDD to Agua Fria should they ever need it but would also allow Agua Fria to convey water from their existing facilities – their well, their tank and their pump stations, into the rest of their service area.

Mr. Tavelli's land is clearly within the boundaries of the service area that Agua Fria is responsible for. Agua Fria Mutual Domestic is responsible for it. Back in 2005, 2006 actually, Mr. Tavelli had indeed received a commitment from the City of Santa Fe to provide water after the association denied his request for service. So Mr. Tavelli also met all the requirements and spent capital in meeting the requirements that the City had for making such a service commitment. So at this point, given an official agreement, the 2008 annexation agreement which makes any commitment prior to 2008 that the City had to serve outside its boundaries would be honored either by the City directly or through the County which at this time owns a water utility and owns utility lines within the service area.

So it is our position that Mr. Tavelli does have already a commitment for service. The commitment might not be directly exercised by the City because the City no longer owns a line in that area, but at this point the County, because it has interest in honoring and respecting the boundaries of the Agua Fria Mutual Domestic, we the County utilities would go and discuss with the mutual domestic the provisions that would be used for the County to serve the property.

And the way I see it today is that the County will go and say, Mr. Tavelli, your primary water utility will be Agua Fria. However, we, the County would have to work out the details on how that provision is going to be exercised. And the thing is, even though we have the ability to transfer water from BDD into Agua Fria directly, we have a meter at Henry Lynch and we have the pressure and the volume required, the actual service, everyday service is provided by the well, the groundwater well, the tank and the pump station that Agua Fria Mutual Domestic owns and operates.

COMMISSIONER CHAVEZ: So then, Pego, would they be billing the customer?

MR. GUERRERORTIZ: So the idea is, somehow we would work out the details so that Mr. Tavelli and his subdivision would be customers of the mutual domestic. That's correct.

CHAIR HOLIAN: Okay. Yes, Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Guerrerortiz. This is just a comment. This master plan and my perspective is the same it's been on all the previous approvals. It's consistent with the extensions that we've granted in the past and I think in fairness and equity this falls in that same category. So that's my comment. Thank you, Madam Chair.

CHAIR HOLIAN: Okay. Any further questions? Commissioner Chavez.

COMMISSIONER CHAVEZ: No, I don't have questions but I would go ahead and move for approval, hope for a second, and then we could continue with discussion.

COMMISSIONER ANAYA: Second.

CHAIR HOLIAN: Okay, I have a motion and a second for the Tavelli Master Plan Extension. Is there any further discussion?

COMMISSIONER ANAYA: Well, what I would - I was remiss. My motion would include all staff recommendations.

CHAIR HOLIAN: I don't believe there are any staff recommendations in this case. Is that true, Vicki? Other than the two years.

MS. LUCERO: Madam Chair, the application would still be subject to the conditions of approval on the prior master plan but we don't have anything additional.

CHAIR HOLIAN: I see. Thank you. Okay, I have a motion and a second.

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

- XVII. A. 5. **CDRC CASE #V 12-5060 Jay Shapiro Variance.** Jay Shapiro, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow Two Dwelling Units on 10.21 Acres. The Property is Located at 94 Cloudstone Drive, within Section 5, Township 16 North, Range 10 East, Commission District 4

MS. LUCERO: Thank you, Madam Chair. On September 20, 2012, the CDRC met and acted on this case. The decision of the CDRC was to recommend denial of the request. The applicant requests a variance of Article III, § 10, Lot Size Requirements, of the Land Development Code to allow two dwelling units on 10.21 acres. The property is located in the Mountain Hydrologic Zone where the minimum lot size is 20 acres per dwelling unit with water restrictions of 0.25 acre feet per year. The 10.21-acre lot was created as part of a pre-code subdivision in 1976. At that time there were no water restrictive covenants imposed on these lots.

There are currently two dwelling units on the subject property. The structures consist of a main residence and an accessory structure. The accessory structure which was permitted on May 13, 2010 showed a bathroom, but no kitchen facilities. At the time of permitting, the Applicant signed a Development Affidavit stating that the accessory structure would not be converted at any time into a dwelling unit. The accessory structure has been converted into a dwelling with both kitchen and bathroom facilities.

"The State Construction Industries Division informed the County that the accessory structure was constructed as a residence after they conducted a Final Inspection. The County issued a Notice of Violation for exceeding density and the Applicant immediately came in to submit a request for a variance.

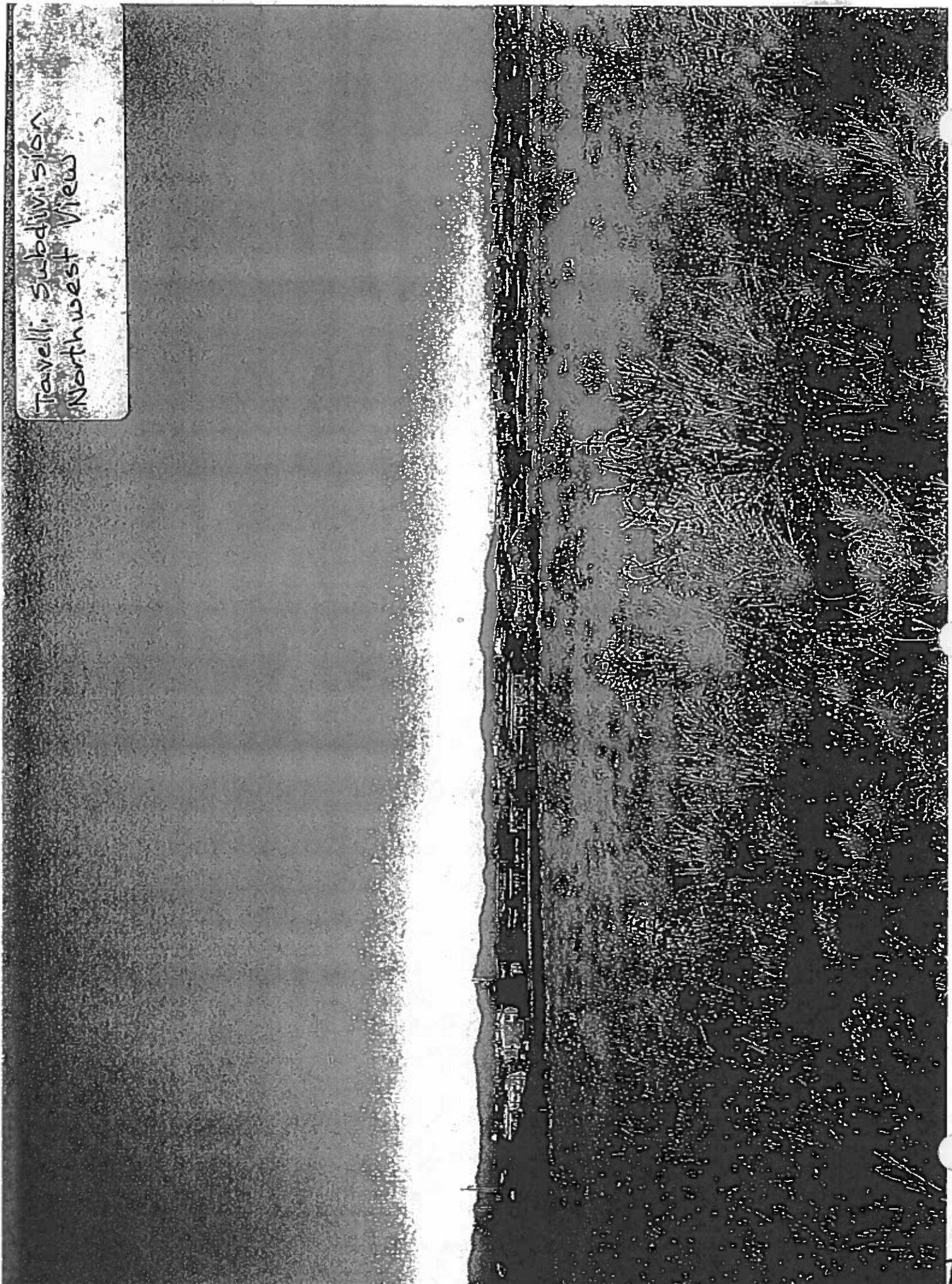
During the final stages of design, after permits were issued, the Applicant added an area for a kitchen, which the Agent states was approved by the Homeowner's Association. The Agent also states that the structure in question is keeping with the character of the neighborhood and the other accessory dwelling units in the subdivision,

Tavelli Subdivisic
North View

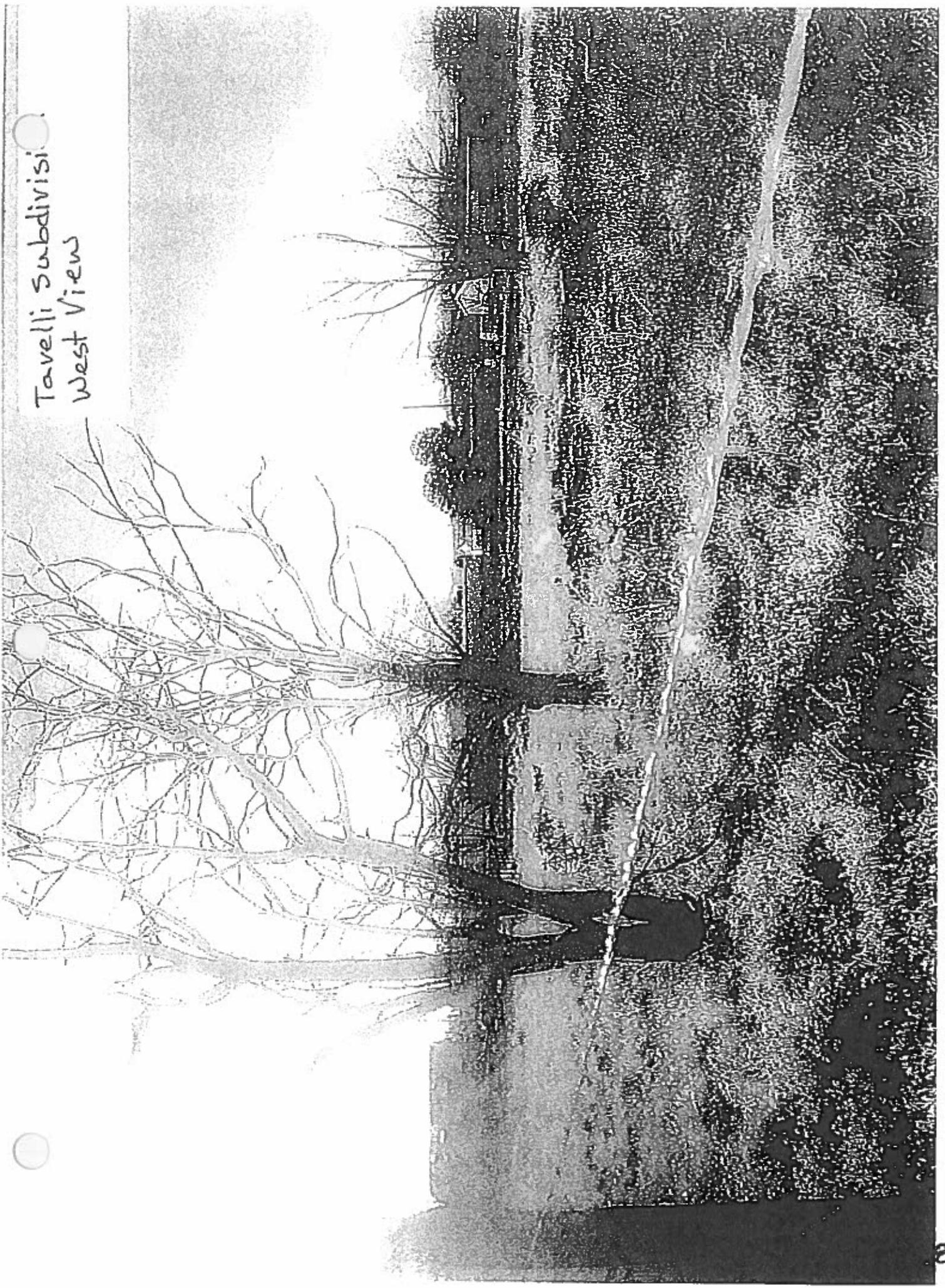


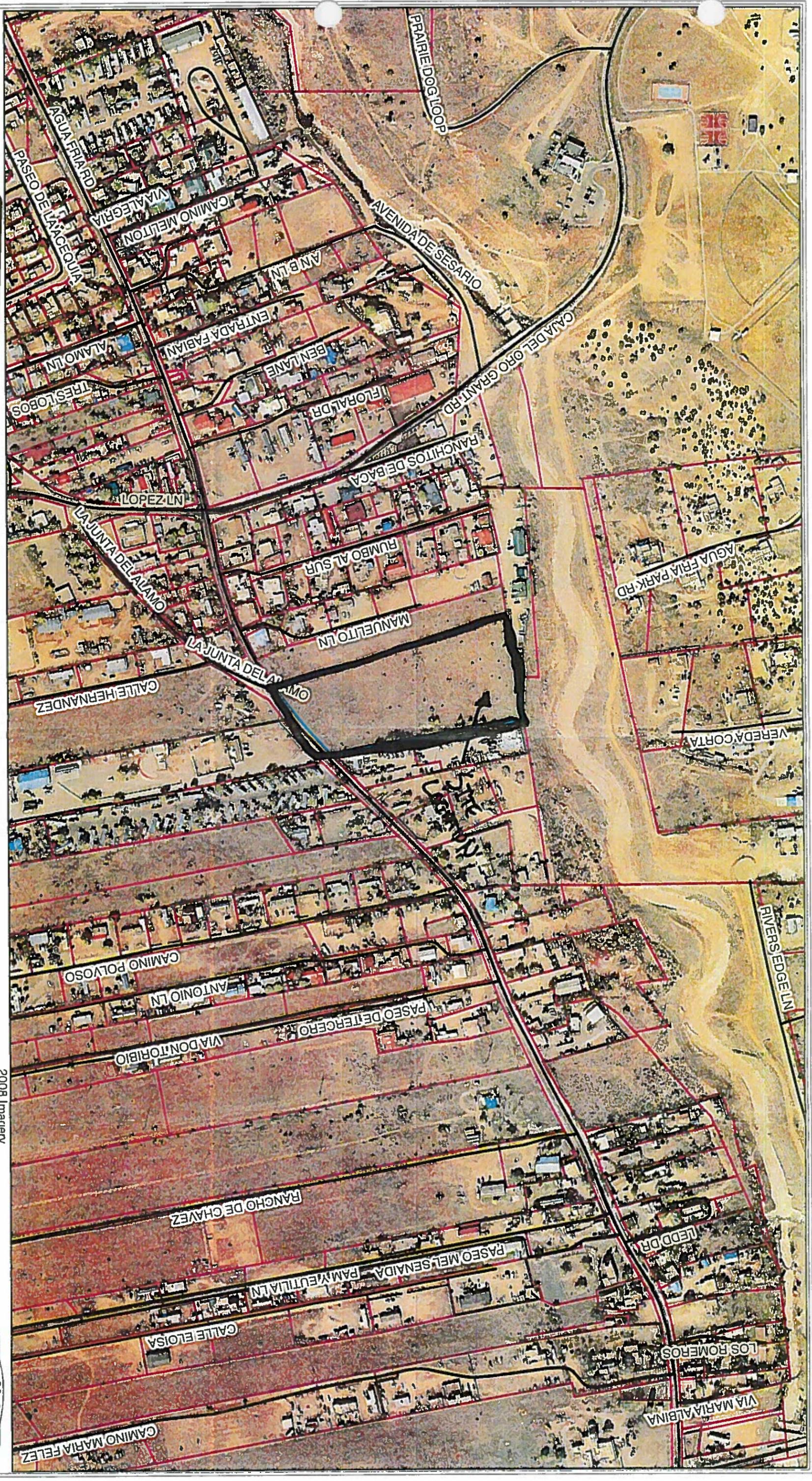
EXHIBIT
5.

Tavelli Subdivision
Northwest View

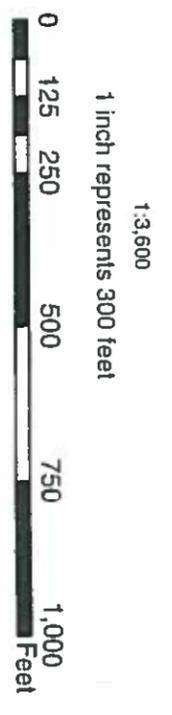


Tavelli Subdivisi
West View





Legend
 ROADS
 PARCELS



2008 Imagery
 2 FOOT CONTOURS

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December 22, 2014

