

Daniel "Danny" Mayfield
Commissioner, District 1
Miguel M. Chavez
Commissioner, District 2
Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4
Liz Stefanics
Commissioner, District 5
Katherine Miller
County Manager

DATE: August 21, 2014

TO: Board of County Commissioners

FROM: John Lovato, Development Review Specialist Senior

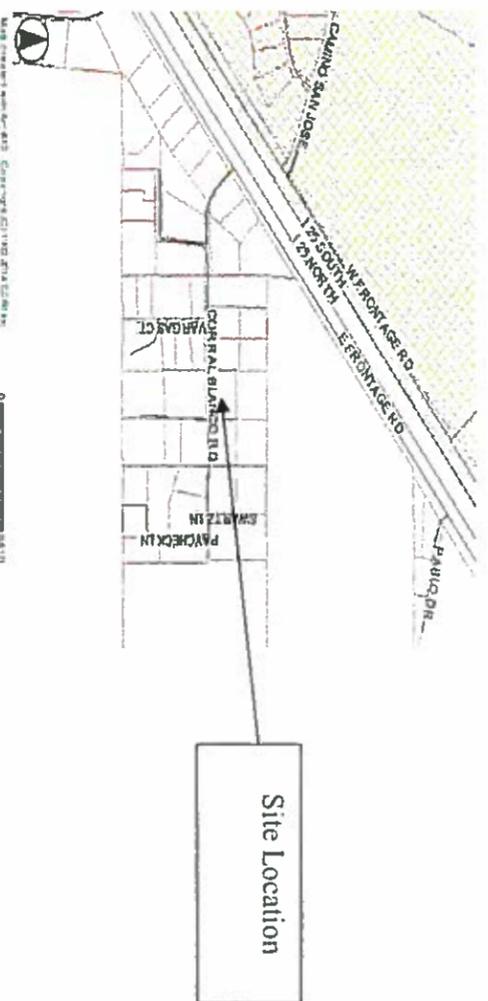
VIA: Katherine Miller, County Manager
Penny Ellis-Green, Growth Management Director
Vicki Lucero, Building and Development Services Manager
Wayne Dalton, Building and Development Services Supervisor

FILE REF: CDRC CASE # V 14-5200 Rita Madril Variance

ISSUE:

Rita Madril, Applicant, Annette Madril Martinez, Agent, request a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code, to allow a Small Lot Family Transfer Land Division of 2.12 acres into two lots consisting of 1.06 acres each.

The property is located at 29 Corral Blanco Rd. within the vicinity of the 1-25 East Frontage Road, within Section 4, Township 15 North, Range 8 East, (Commission District 4).
Vicinity Map:



SUMMARY:

The subject lot was created in 1976 and is recognized as a legal non-conforming lot. The 1976 survey plat shows the lot along with a 40 foot road easement on the southern boundary and a 30 foot road and utility easement on the eastern boundary. The Applicant has owned the lot since 1990. There are currently two legal non-conforming residences on the property. The Applicant has submitted an aerial photo dated 1979, showing both residences on the property.

Currently, there are no water restrictions on this parcel. The allotted use for legal non-conforming residences is 1 acre feet per year. The Small Lot Family Transfer will require water restrictions of .25 acre feet per year for both lots. There are lots that range from 1 acre to 2.8 acres within the vicinity.

The Applicant states, a variance is needed due to her medical health conditions. The Applicant also states there have always been two homes on the property and she would like to give her daughter half the property with one of the homes, to alleviate the financial burden and maintenance of the property. The Applicant intends to split the lot into two equal parcels.

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 conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A Development Review Committee may recommend to the Board and the Board may vary, modify or waive the requirements of the Code and upon adequate proof that compliance with Code provision at issue will result in an arbitrary and unreasonable taking of property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety. In arriving at its determination, the Development Review Committee and the Board shall carefully consider the opinions of any agency requested to review and comment on the variance request. In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified. **The variance criteria does not consider financial or medical reasons as extraordinary hardships**

Article II, § 3.2 (Variation or Modification) of the County Codes states: In no case shall any variation or modification be more than a minimum easing of the requirements.

This Application was submitted on June 15, 2014.

On July 17, 2014, the CDRC met and acted on this case. The decision of the CDRC was to recommend denial of the Applicant's request by a majority 4-1 vote with Member Gonzales voting against the motion for denial.

Growth Management staff have reviewed this Application for compliance with pertinent Code requirements. The project does not comply with density requirements of the Code.

APPROVAL SOUGHT: Approval of a variance of Article III, §10 (Lot Size Requirements) of the Land Development Code.

GROWTH MANAGEMENT AREA: SDA-1

HYDROLOGIC ZONE: Basin Hydrologic Zone. The minimum lot size is 10 acres per dwelling with 1 acre feet of water. Lot size can further be reduced to 5 acres with .50 acre feet per year with water restrictions. The maximum allowable adjusted lot size can further be reduced to 2.5 acres per dwelling unit with .25 acre feet per year with water restrictions. Small Lot Family Transfers may reduce to 1.25 acres with .25 acre feet per year. The request does not meet minimum lot size requirements for this type of request.

FIRE PROTECTION: La Cienega Fire District.

WATER SUPPLY: Shared Domestic Well

LIQUID WASTE: Conventional Septic System

VARIANCES: Yes

AGENCY REVIEW: Agency Fire Recommendation None Needed at this time.

STAFF RECOMMENDATION: CDRC and Staff recommended denial of a variance of Article III, § 10 (Lot Size Requirements) of the Land Development Code for a Small Lot Family Transfer Land Division of 2.12 acres into two lots.

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

1. Water use shall be restricted to 0.25 acre feet per year per lot. A water meter shall be installed for each lot. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office (As per Article III, § 10.2.2 and Ordinance No. 2008-05).
2. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development

- Services Department for review and approval (As per Article III, § 2.4.2).
3. Further division of either tract is prohibited: This shall be noted on the plat. Only one dwelling unit shall be permitted on each lot. (As per Article III, § 10.
 4. Deed(s) transferring the Parcel(s) to or among the heirs or beneficiaries shall be recorded at the time the plat is filed. (As per Article II, § 4.3.3)
 5. The Applicant shall provide an updated liquid waste permit for both homes from the New Mexico Environment Department with the Development Permit Application for the Family Transfer Land Division. (As per Article III, § 2.4.1a.1 (a) (iv).
 6. The Applicant shall comply with all Fire Prevention Division requirements at time of Plat Review (As per 1997 Fire Code and NFPA Life Safety Code).

EXHIBITS:

1. July 17, 2014 CDRRC Minutes.
2. Letter of request
3. Article III, § 10 (Lot Size Requirements)
4. Article II, § 3 (Variances)
5. Site Photographs
6. 1978 Aerial
7. Site Plan
8. Aerial of Site and Surrounding Area

V. APPROVAL OF MINUTES: June 19, 2014

Member Martin moved to approve the May minutes. Member Katz seconded and the motion passed by unanimous [5-0] voice vote.

VI. NEW BUSINESS

- A. CDRC CASE # V 14-5200 Rita Madril Variance. Rita Madril, Applicant, Annette Madril Martinez, Agent, request a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code, to allow a Small Lot Family Transfer Land Division of 2.12 acres into two lots consisting of 1.06 acres each. The property is located at 29 Corral Blanco Rd. within the vicinity of the I-25 East Frontage Road, within Section 4, Township 15 North, Range 8 East, Commission District 4

Case Manager John Lovato reviewed the staff report as follows:

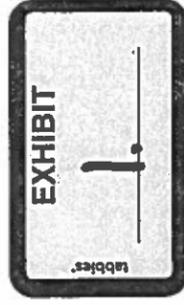
“The subject lot was created in 1976 and is recognized as a legal non-conforming lot. The 1976 survey plat shows the lot along with a 40-foot road easement on the southern boundary and a 30-foot road and utility easement on the eastern boundary. The Applicant has owned the lot since 1990. There are currently two legal non-conforming residences on the property. The Applicant has submitted an aerial photo dated 1979, showing both residences on the property.

“Currently, there are no water restrictions on this parcel. The allotted use for legal non-conforming residences is 1 acre-foot per year. The Small Lot Family Transfer will require water restrictions of .25 acre-feet per year for each lot. There are existing lots that range from 1 acre to 2.8 acres within the vicinity.

“The Applicant states a variance is needed due to her medical health conditions. The Applicant also states there have always been two homes on the property and she would like to give her daughter half the property with one of the homes, to alleviate the financial burden and maintenance of the property. The Applicant intends to split the lot into two equal parcels.

“Growth Management staff have reviewed this Application for compliance with pertinent Code requirements. The project does not comply with density requirements of the Code.”

Mr. Lovato indicated that staff recommends denial of a variance of Article III, Section of the Land Development Code for a Small Lot Family Transfer Land Division of 2.12 acres into two lots. In the event the CDRC approves the variance staff proposed the imposition of six conditions.



Member Gonzales asked whether the new County plan would permit this variance request. Ms. Lucero said the SLDC does not change the density in the area.

Mr. Lovato confirmed that the two residences use the same well and he was unaware of any problems with the well.

Duly sworn, Annette Madril Martinez, agent and applicant's daughter, said with the death of her father it has been difficult for her mother to maintain the entire 2.12-acre property. Ms. Martinez said she and her husband have been helping her mother with the property. She noted that she provided an aerial photo showing there were two residences on the property in 1979 and other than the lot split, nothing would change.

Ms. Martinez said her mother requires financial assistance as well as physical help maintaining the property. Her parents assumed the property consisted of two legal lots of record but only recently learned different. She said her neighbors have been helpful and many have smaller lots than what they will be creating.

Responding to questions posed by the CDRC, Ms. Martinez said her mother lives in one of the residences and her brother the other. Her brother would stay on the property and she and her husband would own the parcel he lives on. Her mother will stay on the property in her home and in the event her brother moves off the property, Ms. Martinez said they would probably rent it.

Ms. Martinez said they have never had any problems with the well. If required to install a second septic system they will do so.

There was no one in the public wishing to speak to this issue.

Stating the request did not meet the legal standard for the variance nor was there a persuasive explanation to grant the variance, Member Katz moved to accept the recommendation of staff and deny #V 14-5200. Member Martin seconded and the motion passed by majority [4-1] voice vote with Member Gonzales voting against.

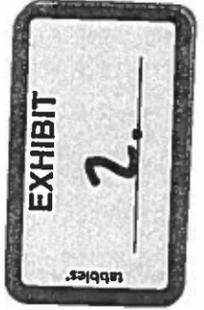
06/15/14

Rita Madril
29 Corral Blanco Rd.
Santa Fe NM 87508

I am writing this letter for approval of variance for a family transfer. My property is located on 29 Corral Blanco Rd and I would like to transfer half of it to my daughter Annette Madril Martinez. I have many health issues and I am getting to that age where I need help with everything. The property has always had two homes and I would like to give half to my daughter to help alleviate the burden of maintaining the large property. The property is 2.12 acres and I would like to split the land in half into two equal parts which will be roughly 1.06 acres. I am at the age where I would like to have my property and finances in order. Please feel free to call me if you have any questions but note that Annette is my power of attorney and has permission legally to represent me. Thank you for your assistance on this important issue for me.

Sincerely,

Rita Madril
505-471-4495



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

9.2 Multiple use projects shall calculate cumulative parking needs for each type of use in the project to be developed.

9.3 Minimum size of parking space shall be 300 square feet which includes the parking stalls and aisles.

9.4 Commercial, industrial, other non-residential and large scale residential uses shall provide for handicap parking.

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

SECTION 10 - LOT SIZE REQUIREMENTS

10.1 Relationship of Lot Sizes to Water Policies

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



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

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

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

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

BASIN FRINGE ZONE: Same as Basin Zone.

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

MOUNTAIN ZONE: Same as Homestead Zone.

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

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

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

10.2 Calculation of Minimum Lot Size

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

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

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

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

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

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

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

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

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

- BASIN ZONE: 10 acres
- BASIN FRINGE ZONE: 50 acres
- MOUNTAIN ZONE: 80 acres
- HOMESTEAD ZONE: 160 acres

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

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

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

10.2.2 Calculation of Use

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

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

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

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

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

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

- BASIN ZONE: 2.5 acres
- BASIN FRINGE ZONE: 12.5 acres
- MOUNTAIN ZONE: 20 acres
- HOMESTEAD ZONE: 40 acres

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

10.2.4 Special Standards for Calculation of Water Availability for Metropolitan Areas
 Special standards which set forth limitations on water availability for metropolitan areas shown in Code Map 12, 14, and 15 are set forth in this Sub-section.

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

- BASIN ZONE: .25 acre feet per acre per year
- BASIN FRINGE ZONE: .05 acre feet per acre per year
- MOUNTAIN ZONE: .0125 acre feet per acre per year

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

- METRO BASIN ZONE: 4 acres
- METRO BASIN FRINGE ZONE: 20 acres
- METRO MOUNTAIN ZONE: 80 acres

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

- BASIN ZONE: 2.5 acres
- BASIN FRINGE ZONE: 5 acres
- MOUNTAIN ZONE: 20 acres

10.3 Exceptions to Minimum Lot Size Requirements

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

10.3.1 Metropolitan Area - Community Water Systems

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

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

10.3.2 Agricultural Areas

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

10.3.3 Traditional Communities

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

10.3.4 Urban Areas

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

10.4 Density Transfer

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

SECTION 11 - IMPORTING OF WATER

11.1 Location Requirements

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

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 of property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety. In arriving at its determination, the Development Review Committee and the Board shall carefully consider the opinions of any agency requested to review and comment on the variance request. In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified.

3.2 Variation or Modification

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

3.3 Granting Variances and Modifications

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

3.4 Height Variance in Airport Zones

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





15.

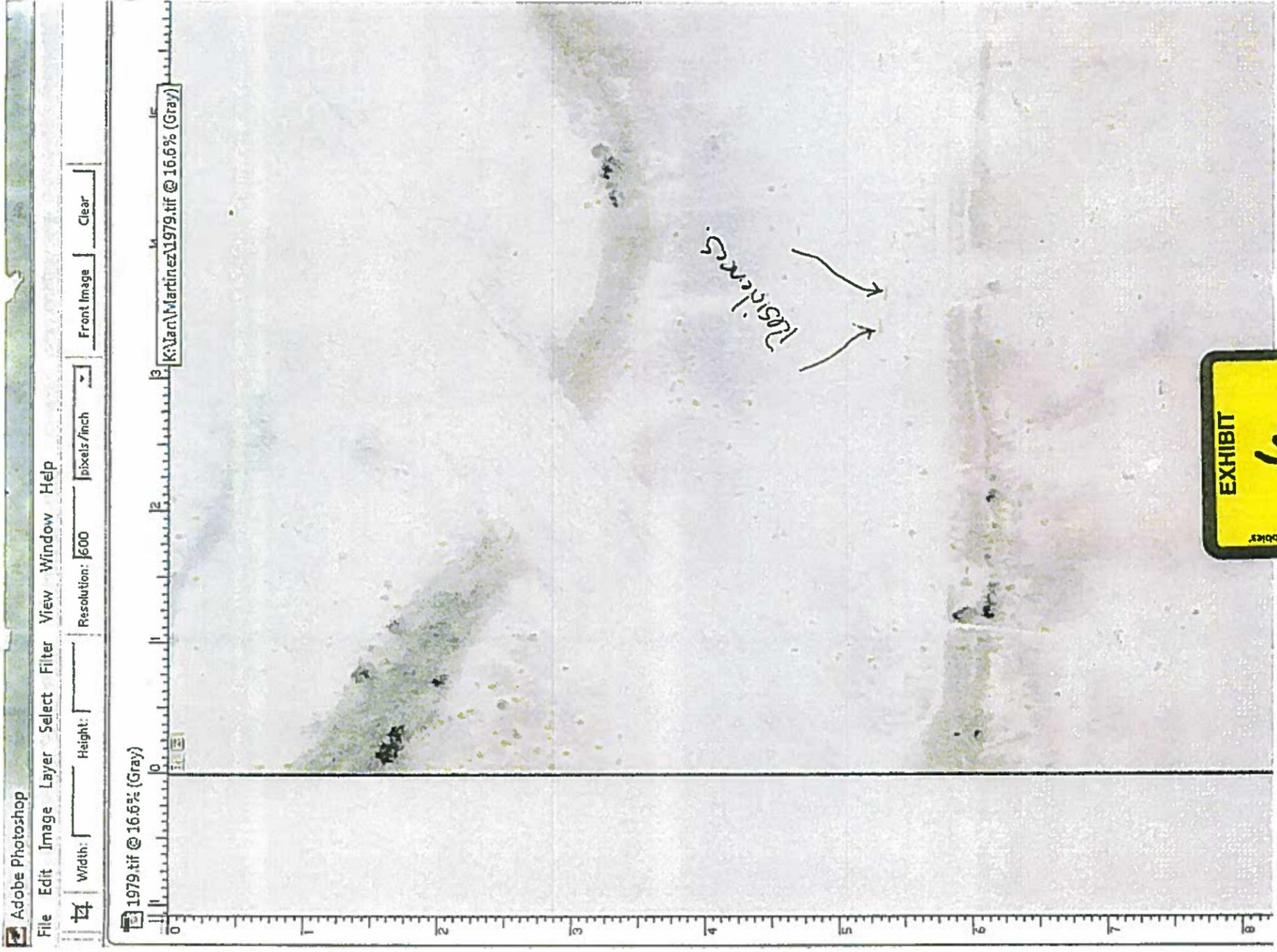
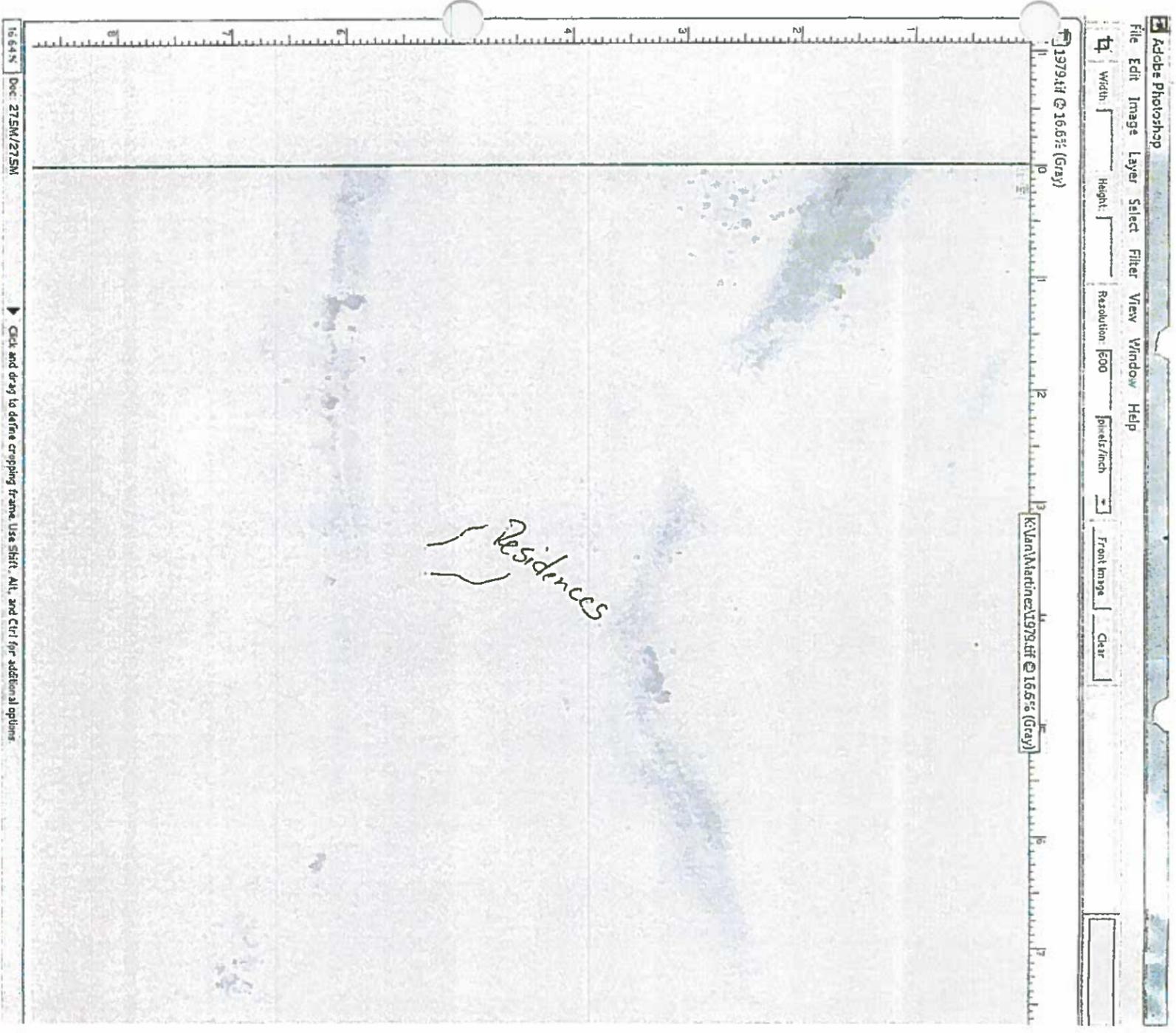


EXHIBIT
6



Residences



2008 Orthophotography
2 FOOT CONTOURS



June 12, 2014

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



- Legend**
-  ROADS
 -  PARCELS

SUMMARY:

The Applicant requests a variance of Article III, § 10 (Lot Size Requirements) of the Land Development Code to allow two dwelling units on 2.5 acres. The subject lot was created in 1984, via Family Transfer and is recognized as a legal lot of record. Currently there are two homes and two accessory structures on the property. The main residence, which is occupied by the Applicant, his family and mother is approximately 2,800 sq. ft. and was constructed sometime in the 1980's. The proposed manufactured home is approximately 1,200 sq. ft. and will be occupied by the Applicant's mother. Staff cannot find any evidence that the main residence was permitted, and the manufactured home was placed on the property illegally. The two accessory structures consist of a small well house and stables, which were constructed sometime between 1992 and 2001. Staff cannot find any evidence these accessory structures were permitted.

On January 30, 2014, Building and Development Services received a complaint regarding the placement of a manufactured home on the property with no Development Permit posted from Santa Fe County. On February 6, 2014, Code Enforcement staff conducted an inspection and issued the Applicant a Notice of Violation for Unpermitted Development.

The Applicant states a variance is needed in order to provide his elderly mother with a home of her own and to help provide assisted living and care for her. Currently, the proposed manufactured home is on the property and is vacant with no utilities connected. **If the variance is approved the Applicant intends to utilize the existing well and septic system for the proposed home.**

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 criteria does not consider financial or medical reasons as extraordinary hardships**

This Application was submitted on March 6, 2014.

On May 15, 2014, the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of the Applicant's request by a 4-3 vote. The CDRC added a condition that the Applicant drills down to the second aquifer with approval from the Office of the State Engineer. This condition was based on public testimony regarding water use and water levels in the area (Minutes Attached as Exhibit 1). The Applicant has received a report from Glorieta Geoscience, which recommends that the Applicant deepen his well which is situated in the Ancha formation into the Espinosa/Galisteo formation to improve production. The Applicant has contacted Lujan drilling and has contacted the OSE to conduct drilling operations.

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

APPROVAL SOUGHT: Approval of a variance of Article III, § 10 (Lot Size Requirements) of the Land Development Code to allow two dwelling units on 2.5 acres.

GROWTH MANAGEMENT AREA: SDA 2

HYDROLOGIC ZONE: Basin Zone, minimum lot size per Code is 10 acres per dwelling unit. Lot size can be reduced to 2.5 acres with signed and recorded water restrictions.

FIRE PROTECTION: Turquoise Trail Fire District.

WATER SUPPLY: Shared Domestic Well

LIQUID WASTE: Shared Conventional Septic System

VARIANCES: Yes

AGENCY REVIEW: Agency County Fire Recommendation Approval

STAFF RECOMMENDATION: Denial of a variance of Article III, § 10 (Lot Size Requirements) of the Land Development Code.

If the decision of the BCC is to approve the Applicant's request for a variance, 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 home. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office (As per Article III, § 10.2.2 and Ordinance 2002-13).
2. The placement of additional dwelling units or Division of land is prohibited on the property (As per Article III, Section 10).
3. The Applicant must obtain a Development Permit for the second dwelling unit and stables. (As per Article II, § 4.5.2b Article II, § 2).
4. The Applicant shall provide an updated liquid waste permit from the New Mexico Environment

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

5. The Applicant shall comply with all Fire Prevention Division requirements at the time of Development Permit Application (As per 1997 Fire Code and 1997 Life Safety Code).
6. The Applicant shall drill down to the second aquifer with the Office of the State Engineer's Approval (As per CDRC).

EXHIBITS:

1. May 15, 2014, CDRC Meeting Minutes
2. Letter of request
3. Article III, § 10 (Lot Size Requirements)
4. Article II, § 3 (Variances)
5. Site Photographs
6. Site Plan
7. Aerial of Site and Surrounding Area
8. Fire Prevention Letter
9. Letter of Opposition

Member Martin appreciated the County staff work on this project and thanked the audience and the applicant for their patience. She said the project's land use compatibility was troublesome to her. The Sustainable Land Development Code speaks to insuring compatibility, provides predictability and security by protecting property values and public and private investments in property improvements. It also mentions adequate transportation network capacity which is a serious issue. Further, she mentioned in *Albuquerque Commons versus City of Albuquerque* the court found that property owners have a right to rely on zoning classifications.

The motion passed by majority [5-1] voice vote with Member Anaya voting against. [Member Katz recused himself.]

VIII. New Business

A. CDRC CASE # V 14-5080 Jason Mohamed Variance. Jason Mohamed, Applicant, Kristofer C. Knutson (Knutson Law PC), Agent, request a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow two dwelling units on 2.5 Acres. The property is located at 11 Virginia Lane, within Section 24, Township 15 North, Range 8 East (Commission District 5)

Member Katz rejoined the committee.

Mr. Romero presented the case as follows:

"The Applicant requests a variance of Article III, Section 10, Lot Size Requirements, of the Land Development Code to allow two dwelling units on 2.5 acres. The subject lot was created in 1984 via Family Transfer and is recognized as a legal lot of record. Currently there are two homes and two accessory structures on the property. The two accessory structures consist of a well house and stables.

"On January 30, 2014, the Building and Development Services Division received a complaint that the Applicant had moved a manufactured home onto the property without a Development Permit from Santa Fe County. On February 6, 2014, Code Enforcement conducted an inspection on the property and issued the Applicant a Notice of Violation for Unpermitted Development.

"The Applicant states that he is requesting a variance in order to move his elderly mother into the second home to help provide assisted living for her. Currently, the Applicant, along with his family including his mother, all reside in the main residence. The manufactured home that was illegally placed on the property is vacant and not connected to any utilities."

SFC CLERK RECORDED 06/26/2014

Mr. Romero said staff recommends denial of the variance request; however, if the CDRC recommends approval of the Applicant's request for a variance, 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 home. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office (As per Article III, § 10.2.2 and Ordinance 2002-13).
2. The placement of additional dwelling units or Division of land is prohibited on the property (As per Article III, Section 10).
3. The Applicant must obtain a Development Permit for the second dwelling unit and stables. (As per Article II, § 4.5.2b Article II, § 2).
4. The Applicant shall comply with all Fire Prevention Division requirements at the time of Development Permit Application (As per 1997 Fire Code and 1997 Life Safety Code).
- 5.

Appearing for the applicant was attorney Kristofer Knutson and duly sworn were Jason Mohamed and his wife.

Mr. Knutson said the variance request located the property on Turquoise Trail near the San Marcos Café and Feed Store. He said the character of the neighborhood is that many of the homes have accessory structures and dwellings, many grandfathered in. This dwelling will allow for Mr. Mohamed's elderly mother to live on the property in her own home. The heated area of the manufactured will not exceed 1,200 square feet and is not over one-story in height. The property contains a barn that has no utilities and a well house. The manufactured home will be accessed by the same driveway and no separate curb cut is necessary. Water and electricity will be shared with the principal residences and the same leach field used.

Mr. Knutson said there will be little change in water since the Mr. Mohamed's mother lives with them at this time. A swamp cooler may be used.

Mr. Knutson said the placement of the manufactured home will not result in a diminished property value for neighbors. The area has a variety of dwellings and lacks uniformity. The dwelling will provide privacy for Mr. Mohamed and his wife as well as his elderly mother. He said approving this variance was in the public interest because family was caring for his mother.

Mr. Mohamed is prepared to stucco the home for conformity purposes. Mr. Knutson noted that the accessory structure is in accordance with the Sustainable Land Development Code which recognizes accessory dwellings are an important means by which people can provide separate and affordable housing for their elderly parents.

Referring to the geohydro report Mr. Mohamed received, Glorieta GeoScience recommends that he deepen his well which is situated in the Ancha formation into the Espinosas/Galisteo formation to improve production, stated Mr. Knutson.

Mr. Knutson said Chapter 10, Supplemental Zoning Standards of the SLDC, allows for accessory structures used for dwelling purposes. He read from Section 10.4 confirming the use of accessory dwelling units.

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Ms. Lucero said when the SLDC becomes effective this type of use can be approved administratively. She said the code will not take effect until the zoning map is adopted and there are two public hearings scheduled to that end. The earliest it will take effect is the end of July.

Ms. Lucero said this case will be forwarded to the BCC for its July 8th meeting.

Recognizing this case can be approved administratively following the adoption of the new code, Member Gonzales said it seems like it's no man's land. Ms. Lucero said staff has not evaluated the case for conformity under the new code.

Mr. Knutson agreed with Member Gonzales' observation that they were in no man's land.

Member Martin observed that this case is coming forward in response to a complaint by a neighbor. Mr. Romero said that was the case and Santa Fe County Code Enforcement issued a violation and the applicant is now seeking a remedy to the violation.

The principal home is 2,800 square feet and the mobile home is 1,200 square feet. Mr. Mohamed's wife indicated that the original structure was built around 1980 and permits were granted for remodeling and expansion in 2002.

Mr. Mohamed explained that drilling down to the lower aquifer will provide more water and is the logical step for the entire neighborhood to obtain more water. He said he has already contacted Lujan Drilling and is in the process.

If drilling to the lower aquifer is made a condition for approval, Mr. Knutson requested that it be contingent on approval of the OSE.

Mr. Knutson confirmed that his client would meet the conditions of approval.

Duly sworn, James Montoya, 07 Virginia Lane, Santa Fe County, said he has been on the property next to Mr. Mohamed for 23 years. He said he found out about the variance request late because the applicant did not comply with the requirement to notify all the neighbors. Mr. Montoya distributed letters from the neighbors opposing the variance [*Exhibit 10*].

Mr. Montoya said his deceased father received a letter pertaining to this matter but he had not. He acknowledged that Mr. Mohamed placed notification in the newspaper that "nobody saw" and posted the notice on a telephone pole but only one person saw it.

Mr. Montoya said he recently had to install a new well pump because of the high use of water in the area. He asked the CDRC to deny the request.

Duly sworn, Henrietta Larkin, 12B Sunset Trail West, Santa Fe County said she lived west of the subject property. Ms. Larkin said the lot is too small at 2.5 acres for the two dwellings. Also, she said the applicants' well lacks integrity and is taxing her well. Ms. Larkin said when Mr. Mohamed needed water she was neighborly and allowed them

to take a hose from her well to their house. However, they asked a few more times and she said no. The variance request is not appropriate for the area.

Ms. Larkin said she feels she was not told the truth by Mr. Mohamed.

Under oath, Lucy Montoya, the wife of James Montoya, said they see vehicles go to the adult detention center on Highway 14 to get water because the water levels are low and that concerns her. She asked the CDRC to deny the request.

Mr. Knutson identified Mr. Montoya as the complainant and found his statement that he learned about this late in the game puzzling. Certified letters were sent to all the neighbors. A visible sign was posted. He said there will be no additional traffic nor disturbance of the viewshed. Further, the water situation will improve with the deeper well.

Mr. Mohamed's wife said she sent certified letters to the five surrounding neighbors within 100 feet of their property line. The certified receipts are with County Land Use. The letters were addressed as they appeared on the County records.

Member Katz commended Mr. Mohamed for taking care of his mother. He said the variance concerned him and the new code may better address this. There was not a compelling argument to vary the law and there were clearly water issues. For those reasons he moved for denial. Member Martin seconded. The motion failed by majority [3-4] voice vote with Members Katz, Martin and Drobnis voting for and Members Roybal, Gonzales, Booth and Anaya voting against.

Member Gonzales moved to approve the variance with the staff condition and an additional condition that the applicant drill down to the second aquifer with the OSE's approval. Member Booth seconded and motion passed by majority [4-3] voice vote. Members Roybal, Gonzales, Booth and Anaya voting for and Member Katz, Martin and Drobnis voting against.

[The CDRC recessed.]

B. CDRC CASE # V14-5050 Lloyd & Magdalena Vigil Variance: Lloyd and Magdalena Vigil, Applicants, request a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow a 1.25-acre parcel to be divided into two (2) lots; one lot consisting of 0.614 acres and one lot consisting of 0.637 acres. This request also includes a variance of Article V, Section 8.1.3 (Legal Access) and Article 8.2.1c (Local Roads) of the Land Development Code. The road that services the property (Calle Rio Chiquito) does not meet the specifications of local lane, place or cul-de-sac roads and does not have adequate drainage control necessary to insure adequate access for emergency vehicles. The property is located at #15 and #16 Calle Rio Chiquito, within Section 5, Township 20-North, Range 10 East (Commission District 1)

SFG CLERK RECORDED 06/26/2014

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March 6, 2014

John Lovato
Santa Fe County
102 Grant Avenue
Santa Fe, NM 87501

RE: Request for Variance for 11 Virginia Lane

Dear Mr. Lovato:

This firm represents Jason Mohamed. Mr. Mohamed recently received a notice of violation regarding a mobile home he has placed on his property pursuant to Santa Fe County zoning regarding lot size requirements. The purpose of this letter is to ask you to approve a variance for the mobile home on the property.

The variance is requested to allow Mr. Mohamed's family member to live in the mobile home. We do not feel that the variance if granted would have an impact upon the water sources in the area, as Mr. Mohamed has a domestic well, and the added use would have a minimal additional impact on water use.

Furthermore, the surrounding neighborhood includes many residences that have mobile homes with family members living there. Granting the variance requested will not confer on the applicant any special privilege, and the variance if granted will result in a minimum easing of Ordinance requirements, making possible the reasonable use of Mr. Mohamed's property.

Granting of this variance would be within the purpose of this ordinance because it would not be injurious to the area or otherwise detrimental to the public welfare, and the variance will not set a precedent which conflicts with the policies of the Extraterritorial Plan.

Very truly yours,



Kristofer C. Knutson

cc: Jason Mohamed

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

9.2 Multiple use projects shall calculate cumulative parking needs for each type of use in the project to be developed.

9.3 Minimum size of parking space shall be 300 square feet which includes the parking stalls and aisles.

9.4 Commercial, industrial, other non-residential and large scale residential uses shall provide for handicap parking.

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

SECTION 10 - LOT SIZE REQUIREMENTS

10.1 Relationship of Lot Sizes to Water Policies

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

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

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

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

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

BASIN FRINGE ZONE: Same as Basin Zone.

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

MOUNTAIN ZONE: Same as Homestead Zone.

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

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

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

10.2 Calculation of Minimum Lot Size

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

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

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

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

Where:

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

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

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

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

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

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

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

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

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

10.2.2 Calculation of Use

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

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

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

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

- BASIN ZONE: 5 acres
- BASIN FRINGE ZONE: 25 acres
- MOUNTAIN ZONE: 40 acres
- HOMESTEAD ZONE: 80 acres

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

- BASIN ZONE: 2.5 acres
- BASIN FRINGE ZONE: 12.5 acres
- MOUNTAIN ZONE: 20 acres
- HOMESTEAD ZONE: 40 acres

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

10.2.4 Special Standards for Calculation of Water Availability for Metropolitan Areas
 Special standards which set forth limitations on water availability for metropolitan areas shown in Code Map 12, 14, and 15 are set forth in this Sub-section.

- a. Standard Values of Water Availability
 Because the policy for water management in Metropolitan areas allows for depletion of storage over a 40 year period, standard values for A are as follows:
 - BASIN ZONE: .25 acre feet per acre per year
 - BASIN FRINGE ZONE: .05 acre feet per acre per year
 - MOUNTAIN ZONE: .0125 acre feet per acre per year

The minimum lot sizes which result from the use of these standard values are as follows:
METRO BASIN ZONE: 4 acres
METRO BASIN FRINGE ZONE: 20 acres
METRO MOUNTAIN ZONE: 80 acres

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

- BASIN ZONE: 2.5 acres
- BASIN FRINGE ZONE: 5 acres
- MOUNTAIN ZONE: 20 acres

10.3 Exceptions to Minimum Lot Size Requirements

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

10.3.1 Metropolitan Area - Community Water Systems

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

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

10.3.2 Agricultural Areas

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

10.3.3 Traditional Communities

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

10.3.4 Urban Areas

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

10.4 Density Transfer

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

~~SECTION 11 - IMPORTING OF WATER~~

~~11.1 Location Requirements~~

~~Developments which import water from the surface Rio Grande or other locations outside Santa Fe County to any location in Santa Fe County designated in the Development Code as other than urban or metropolitan locations are permitted to locate anywhere in the County provided they meet all requirements of the Code, except that in lieu of the density requirements as specified in Article 11, Section 10, the proposed development shall meet the following criteria.~~

2.5 Zoning

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

2.6 Subdivisions

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

2.7 Other Requirements

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

SECTION 3 - VARIANCES3.1 Proposed Development

~~Where in the case of proposed development, it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A Development Review Committee may recommend to the Board and the Board may vary, modify or waive the requirements of the Code and upon adequate proof that compliance with Code provision at issue will result in an arbitrary and unreasonable taking 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.~~

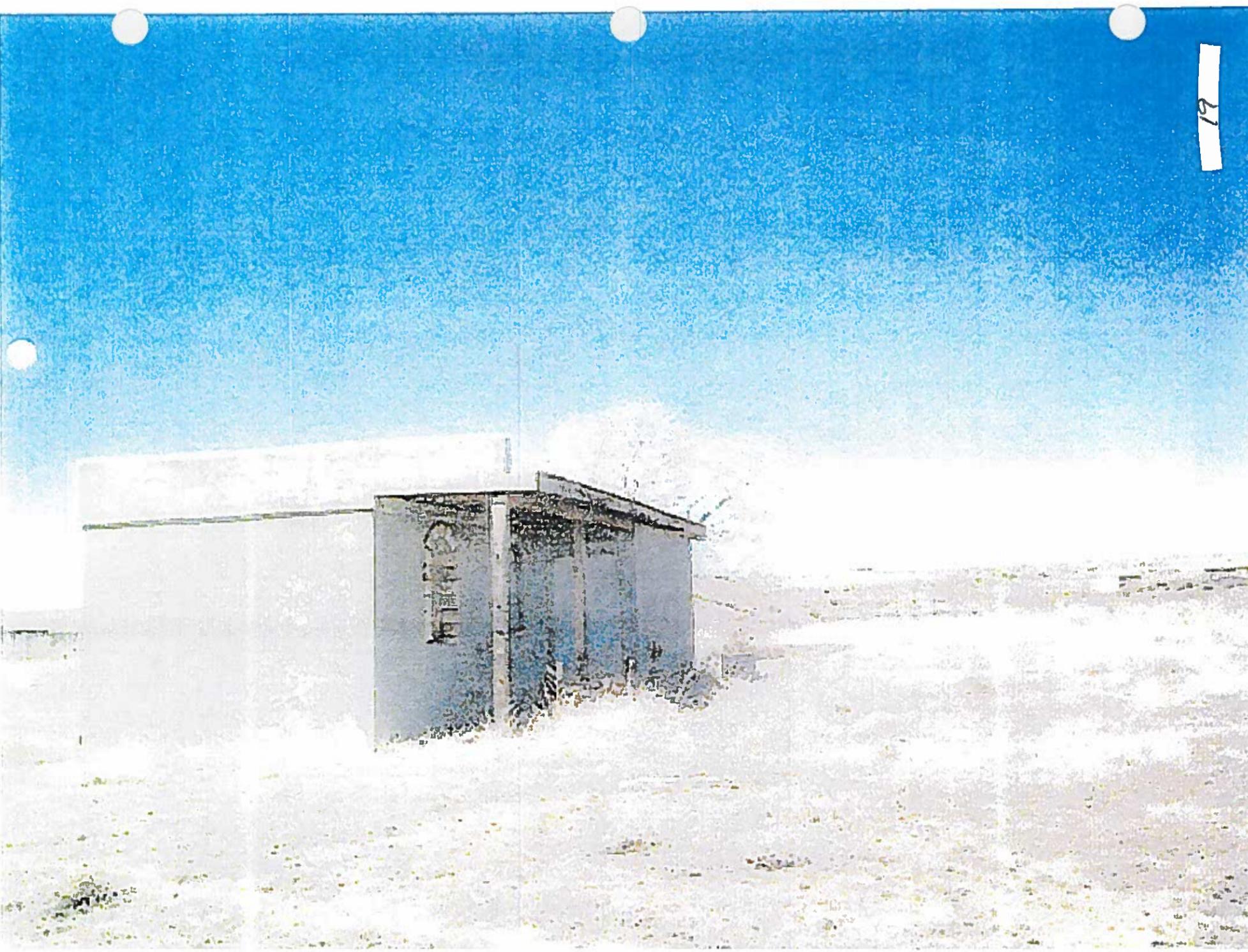
3.4 Height Variance in Airport Zones

~~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~~

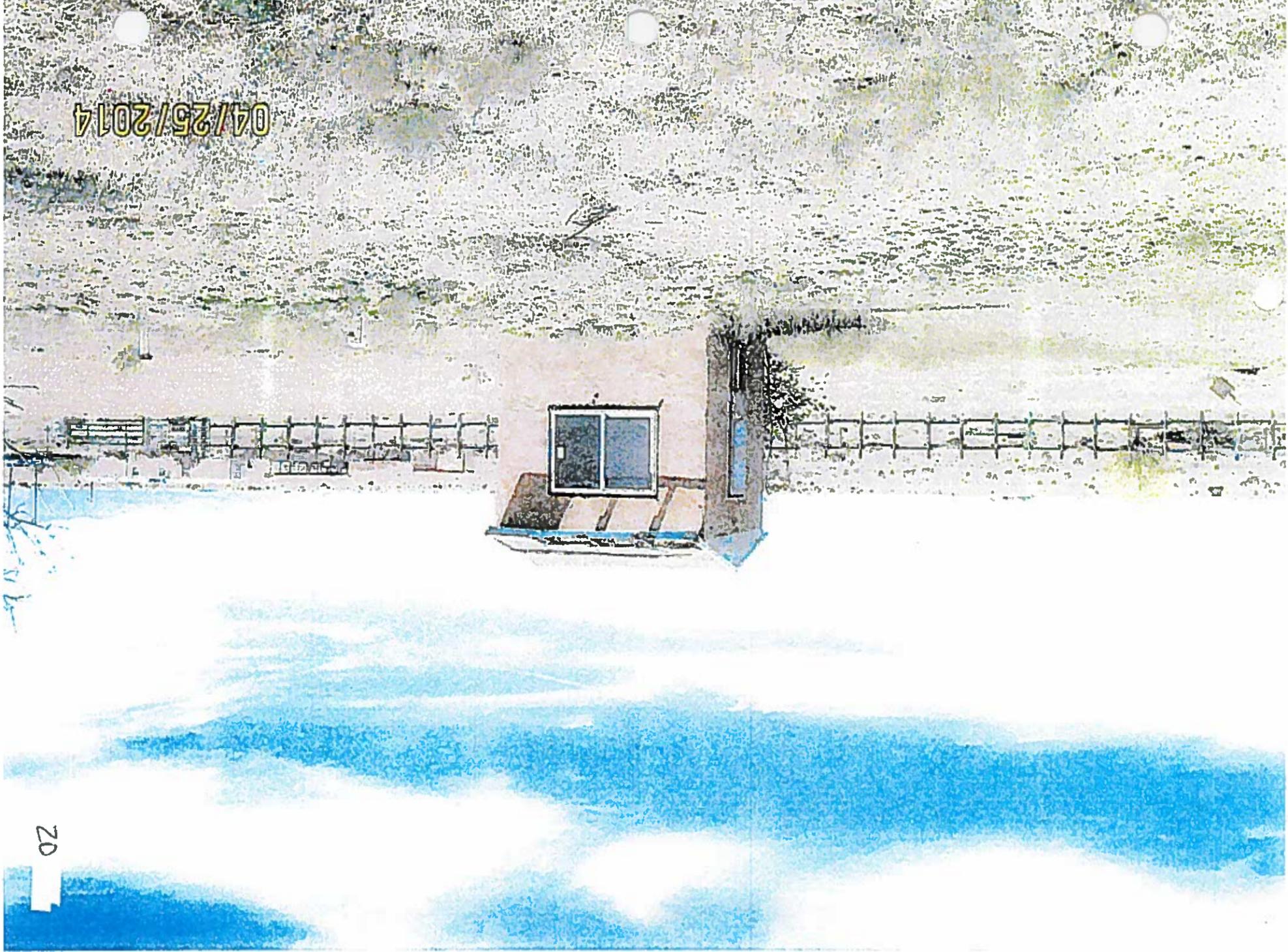


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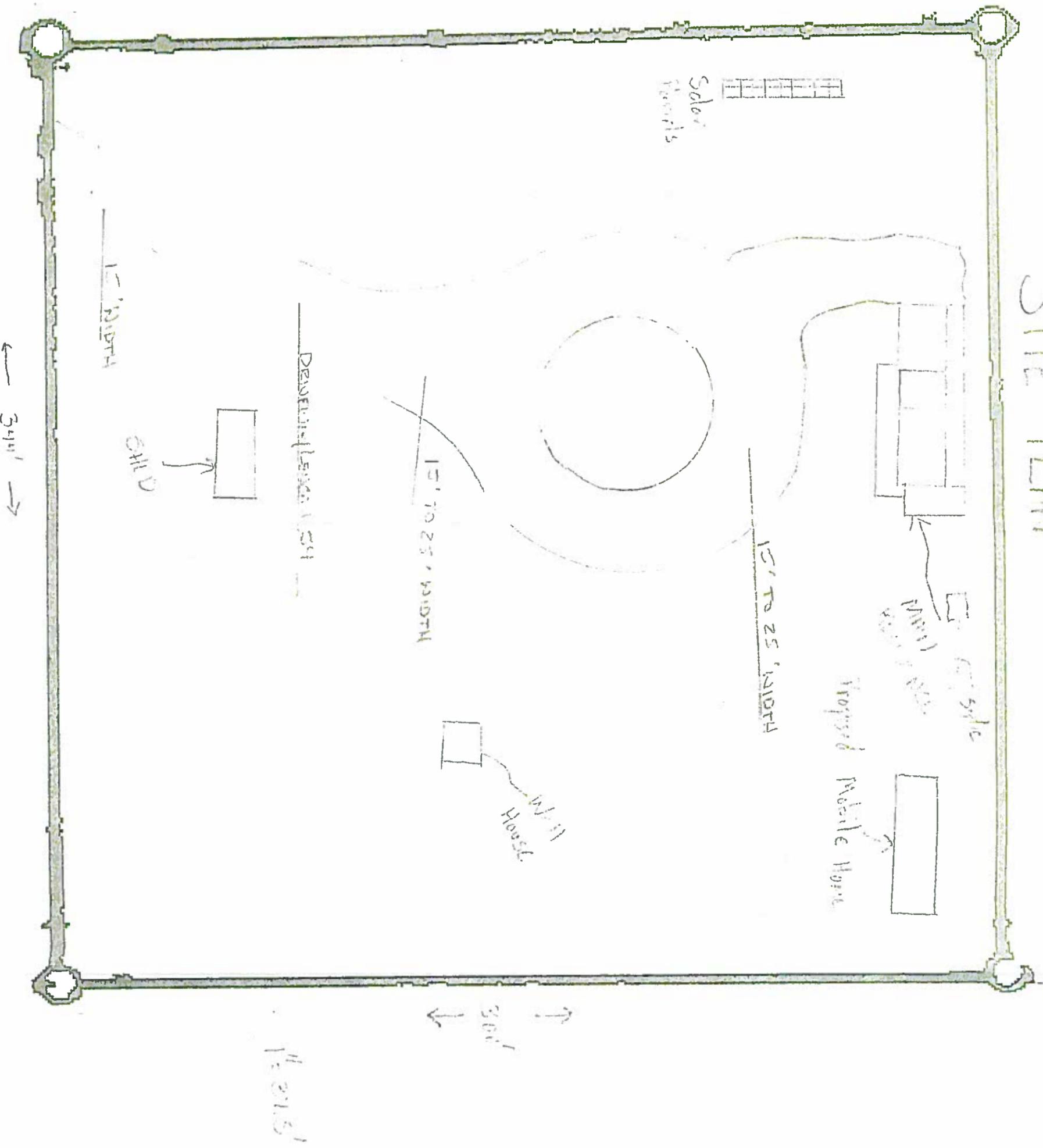


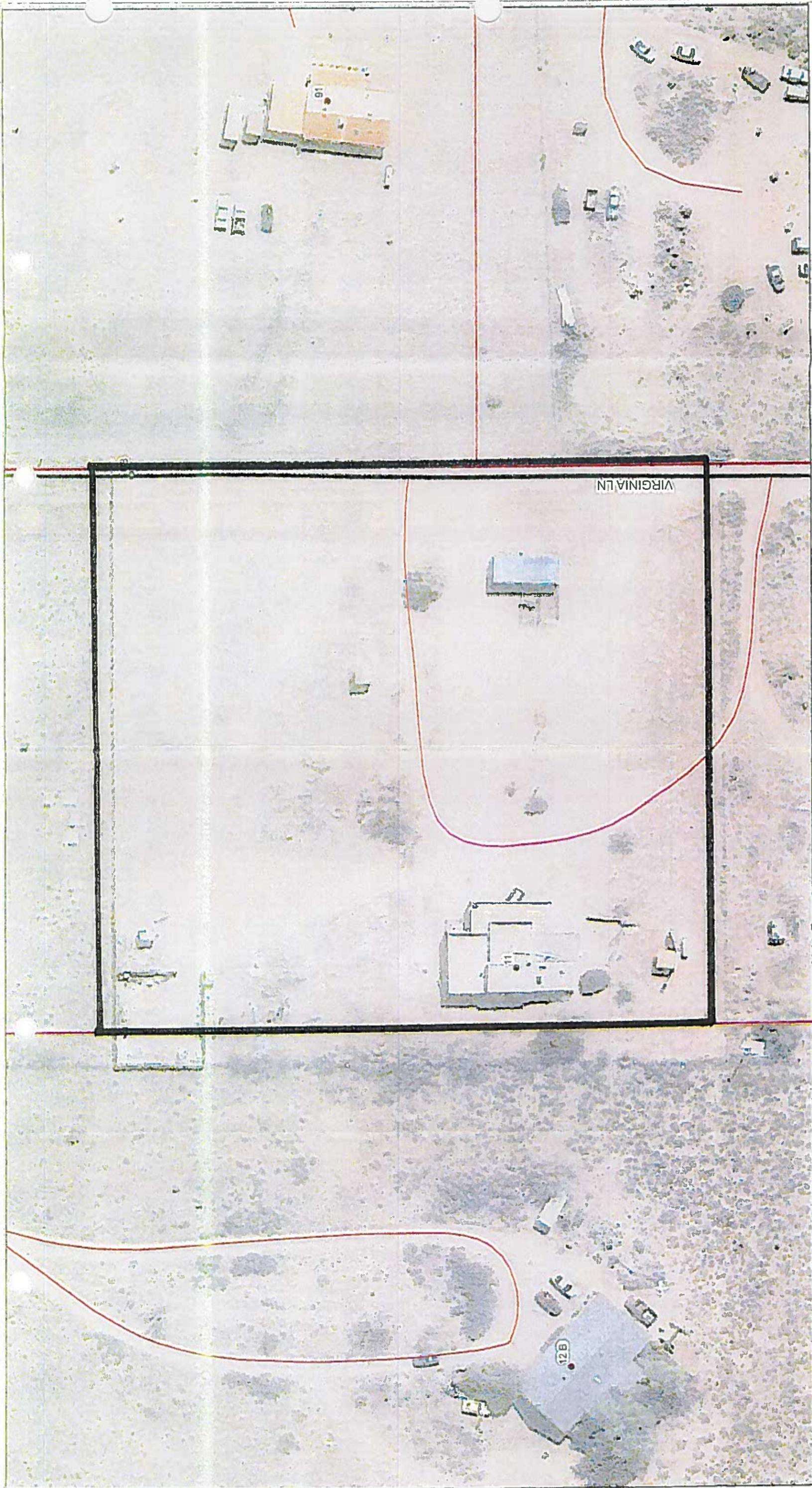
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20

SITE PLAN





March 19, 2014

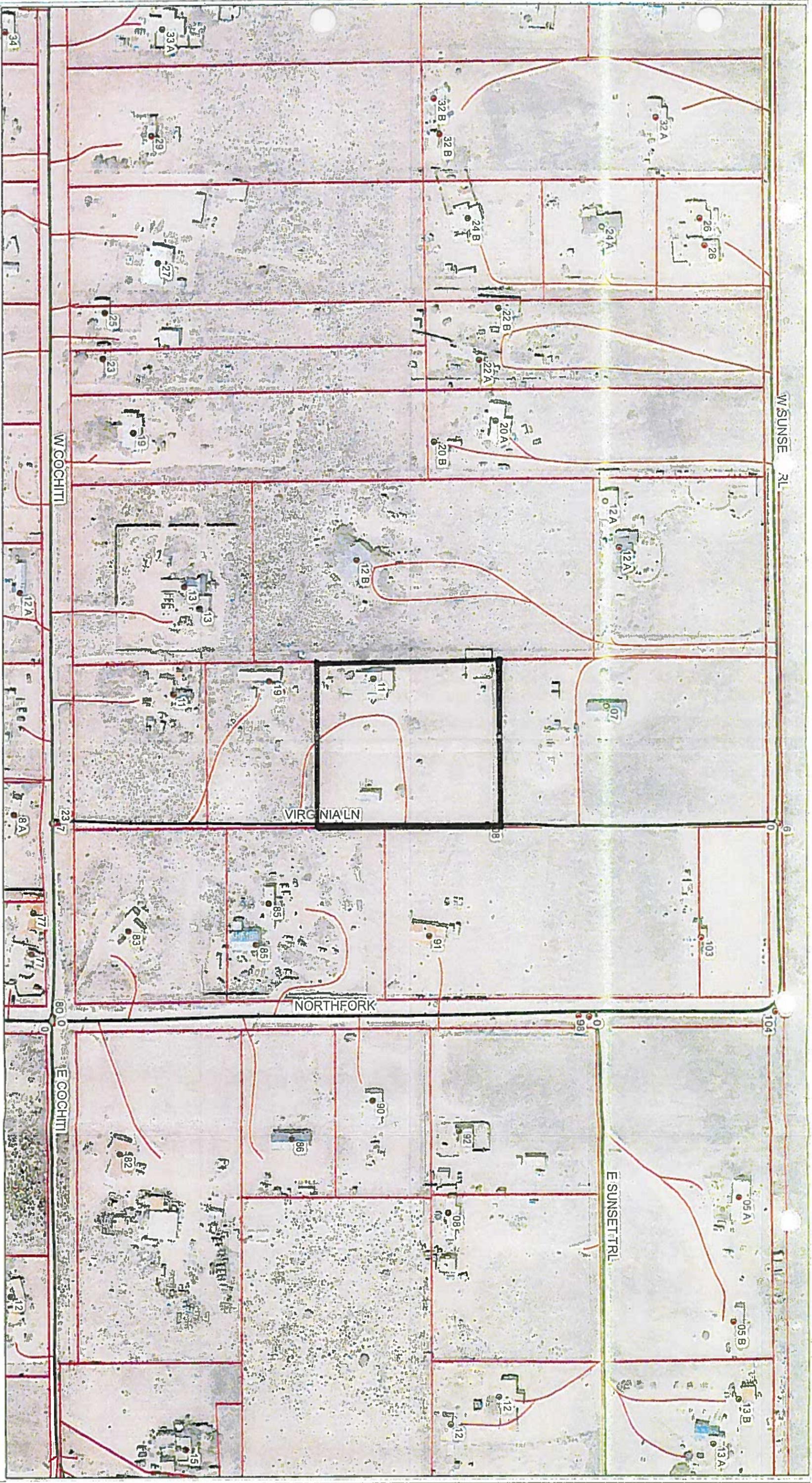
2008 Orthophotography
2 FOOT CONTOURS

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confirming data accuracy



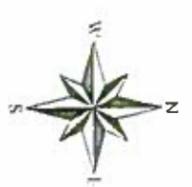
Legend

-  ROADS
-  DRIVEWAYS
-  Parcels



Legend

-  ROADS
-  DRIVEWAYS
-  Parcels



2008 Orthophotography
2 FOOT CONTOURS

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



March 19, 2014

Daniel "Danny" Mayfield
Commissioner, District 1
Miguel Chavez
Commissioner, District 2
Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4
Liz Stefanie
Commissioner, District 5
Katherine Miller
County Manager

Santa Fe County Fire Department Fire Prevention Division

Official Development Review

Date	04/15/2014
Project Name	Jason Mohamed
Project Location	11 Virginia Lane, Santa Fe, New Mexico 87508
Description	Variance of density for a manufactured home
Applicant Name	Jason Mohamed
Applicant Address	11 Virginia Lane Santa Fe, New Mexico 87508
Applicant Phone	505-699-0895
Case Manager	Mike Romero
County Case #	14-5080
Fire District	Turquoise Trail

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 shall be 20' wide all the way around the circle and the entry lane for the gate per the meeting with the owner. The new driveway for the second residence shall be 14' wide, this new driveway provides a turnaround hammerhead leg from the existing driveway. There is a locked electric gate 16' wide and 7' away at the front entry is an unlocked metal gate 14' wide for emergency access. 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 is 16' and driveway width shall be 20' and an unobstructed vertical clearance of 13'6".

Virginia Lane is a private roadway that does not meet the Santa Fe County Standards.

- **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.*

- **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 that 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.

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 Nick, Inspector
Renee Nick
Code Enforcement Official

4-15-14
Date

Through: Chief David Sperting

File: DEV/Jason/Mohammed-041514/TT

Cy: *JS*
Buster Parry, Fire Marshal
Caleb Menie, Land Use
Applicant
District Chief Turquoise Trai
File

May 7, 2014

Addressed to all the following:

Santa Fe County Growth Management Department Building and Development Services Division.

Attn: Mr. Miguel Mike Romeo

All C D R C Members

Board of County Commissioners

From: All five surrounding property owners adjacent to property 11 Virginia Lane, Santa Fe County, N.M.
zip code 87508 owned by Jason Mohamed.

The five property owners are as follows:

Two properties border the property 11 Virginia Lane to the east directly in front of the home on 11 Virginia Lane.

One property owner is Mrs. Cathy Catanach,

91 Northfork

Santa Fe County N.M., zip code 87508

The other is Corine Martinez, property owner of:

Lots 85A and 85B Northfork

Santa Fe County N.M., zip code 87508.

The property that borders 11 Virginia Lane to the (South) is owned by Mr. Joseph and Doris Pecos,
19 Virginia Lane

Santa Fe County, NM, zip code 87508.

The property that borders 11 Virginia Lane to the (North) is owned by, James and Lucy Montoya,
07 Virginia Lane

Santa Fe County, N.M., zip code 87508.

The property that borders to the rear of the home on 11 Virginia Lane (West) is owned by,

Ms. Henrietta D. Larkin,

12B Sunset Trail W

Santa Fe County, N.M., zip code 87508.

To everyone that this letter is addressed to we five property owners listed above, first want to thank everyone for letting our voices be heard with this letter and upcoming public hearings.

In the matter of the application filed by Jason Mohamed, 11 Virginia Lane, Santa Fe County, for variance of Article III, Section 10 (lot size requirement) to be allowed to put two dwellings units on 2.5 Acres:

We five surrounding property owners, who border the property 11 Virginia Lane, want to inform everyone that we are all Strongly and Passionately opposed to this variance being granted.

The reason we five property owners have called this area home for so long (average 28 years amongst us) are many but foremost is the fact that this area has always been a rural area. We embrace this rural setting for the views we have, for the peace and quiet and tranquility it provides us. This variance if approved would bring congestions to our neighborhood and open the door to all the negative consequences that overcrowding would certainly bring. Our home and property values would be adversely affected; our precious water supply already very fragile would be in jeopardy. Many home owners in this area are having problems with their water wells this includes Jason Mohamed's property. It is common every day in this area to see trucks with large water containers going to the Adult Detention Facility on HWY 14 to fill their containers.

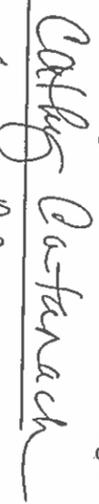
We have all worked very hard for so long to maintain our way of life here. We believe it would be unjust to diminish our hard earned assets for the benefit of one family in our area.

With no permits Jason Mohamed brought in this large older double wide mobile home to his property in clear violation of Article III, Section 10, with no regards for his neighbors. This home greatly detracts from our neighborhood.

We are looking forward to the hearings where we can further state our case against this variance.

We again sincerely thank all concerned and urge that this variance not be granted.

Mrs. Cathy Catanach:



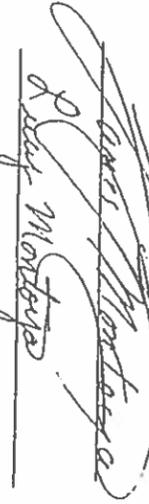
Mrs. Corine Martinez:



Joseph and Doris Pecos:



James and Lucy Montoya:



Ms. Henrietta D. Larkin

Henrietta D. Larkin

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

DATE: August 27, 2014

TO: Board of County Commissioners

FROM: Vicente Archuleta, Development Review Team Leader *VA*

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*

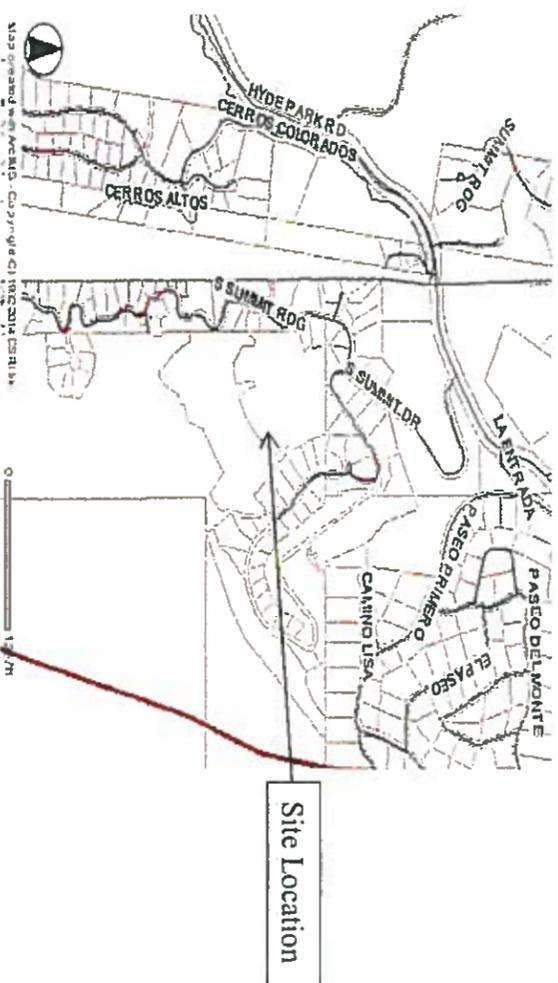
FILE REF.: BCC CASE MIS #14-5231 High Summit III Time Extension

ISSUE:

Grevey-Liberman Family Group, Applicant, James W. Siebert and Assoc., Inc., Agent, request a 2-year time extension of the previously approved Final Plat for Phase 2 of the High Summit III Subdivision under Ordinance No. 2011-11.

The property is located off Hyde Park Road (State Road 475), southeast of the Summit Subdivision, within Sections 15, 16, 21 and 22, Township 17 North, Range 10 East (Commission District 4).

VICINITY MAP:



102 Grant Avenue P.O. Box 276

Santa Fe, New Mexico 87504-0276

505-986-6200

505-995-2740

www.santafecountynm.gov

SUMMARY:

On December 9, 2003, the Board of County Commissioners (BCC) granted Master Plan, Preliminary and Final Plat and Development Plan approval for the High Summit III residential subdivision consisting of 105 lots with 107 dwelling units on 154 acres to be developed in five (5) phases, and a single tract (Tract "K") consisting of 342.3 acres. One phase of the development was to be constructed every three (3) years with full buildout over a 15 year period. The BCC approval also included variances of the Extraterritorial Subdivision Regulations to allow two cul-de-sacs with lengths greater than 1,000 feet and to allow the replacement of standard curb and gutter with stone (Refer to December 9, 2003 BCC Meeting Minutes as Exhibit 3).

In June 2005, Grevey-Liberman sold 490+ acres of land, a portion of which would become High Summit III, to Ralph Brutsche (Developer). At closing, the Developer executed a Note and Mortgage in favor of Grevey-Liberman. Grevey-Liberman then released from their mortgage lien a large area designated open space consisting of approximately 341 acres (Tract K) that the Developer subsequently decided to the Nature Conservancy District.

In 2010, the Developer defaulted under the Note and Mortgage. After three years of litigation in bankruptcy and State district Courts, foreclosure proceedings were completed resulting in Grevey-Liberman getting a Special Master's Deed covering approximately 130 acres of the land they had sold to the Developer that had not been previously released from the mortgage, which includes all of the proposed Phases 2-5.

In 2008, the City and County entered into a settlement agreement for the phased annexation of lands within the urban area. With the acceptance of the settlement agreement, the City assumed jurisdiction over land use review and permitting for Area 18, which included the High Summit development. During the time that this was under the City's jurisdiction, the City granted 2 one-year time extensions of the Master Plan and Final Plat on the subdivision, which is set to expire in December 2014. The City and County later amended the settlement agreement and in January 2014, Area 18 was removed from the City's future annexations and is now under County jurisdiction.

The Applicants now request a time extension on the expiration date of the Final Plat for Phases 2-5 of High Summit III.

Ordinance No. 2011-11 states: "The Board of County Commissioners ("the Board") may suspend provisions of Article V, Sections 5.2.7, 5.3.6, and 5.4.6 of the Code upon a finding of economic necessity, which is defined in terms of a score of 100 or less on the Conference Board's Leading Economic Index® for the United States for any quarter, and for three years following any such event, and the Board recognizes that these conditions are present and desires

to temporarily suspend the enforcement of those sections of Article V that set forth expiration of Master Plans Preliminary Plats and Final Plats for two years pending an economic recovery.”

This Application was submitted on July 7, 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 24-month time extension of the Final Plat for Phases 2 -5

GROWTH MANAGEMENT AREA: SDA-2

HYDROLOGIC ZONE: Mountain Hydrologic Zone, minimum lot size per Code is 80 acres per dwelling unit with water restrictive covenants. Currently served by the City of Santa Fe. Subdivision approval was based on densities allowed by the Extraterritorial Zoning Ordinance and Extraterritorial Subdivision Regulations which were the applicable regulations at the time.

FIRE PROTECTION: City of Santa Fe Fire District

WATER SUPPLY: City of Santa Fe Utilities

LIQUID WASTE: City of Santa Fe Sewer System

STAFF RECOMMENDATION: Staff recommends Approval of the request for a 2-year time extension of the previously approved Final Plat for Phases 2-5 of the High Summit III Subdivision per Ordinance No. 2011-11.

EXHIBITS:

1. Letter of request
2. Report/Site Plans
3. December 9, 2003 BCC Meeting Minutes
4. Ordinance No. 2011-11
5. Letter of Support
6. Aerial of Vicinity



**JAMES W. SIEBERT
AND ASSOCIATES, INC.**

915 MERCER STREET * SANTA FE, NEW MEXICO 87505
(505) 983-5588 * FAX (505) 989-7313
jim@jwsiebert.com

August 27, 2014

Penny Ellis Green
Growth Management Director
102 Grant Avenue
Santa Fe, NM 87504

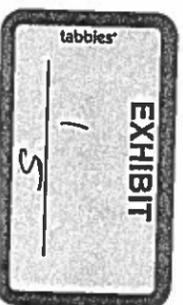
Re: High Summit III Subdivision time extension for properties owned by Grevey-Liberman

Dear Ms. Ellis-Green:

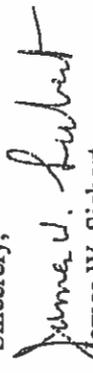
The Grevey-Liberman group is asking for a time extension up through December 31, 2016 for the recording deadline for the previously approved final subdivision plats for the High Summit III Subdivision, phases 2-5 in order to work out the myriad of issues that are being discussed with the County. The time extension is requested under the provisions of County Ordinance No. 2011-11 and Resolution No. 2011-193.

It is my understanding that if the time extension is approved by the Board of County Commissioners, the final plats for phases 2-5 of the High Summit III Subdivision shall remain valid until December 31, 2016. The request was tabled at the August 12, 2014 BCC meeting for further legal review. This request is being heard under the prior notice of public hearing scheduled for the August 12, 2014 BCC meeting.

Delivered with this transmittal letter is a letter from the Summit Homeowners' Association requesting the BCC to consider a favorable recommendation for this request. Thank you for your work on this project that has received delays that were unavoidable on the part of the current property owners.



Sincerely,


James W. Siebert

Xc: James Houghton
Helen Grevey

Under the provisions of Ordinance 2011-11 the Grevey-Lieberman group is requesting a two year time extension for preliminary plat and to record the final plat for Phase 2 which automatically extends the term of the Master Plan. The request is also to record the Preliminary and Final Plats on the remaining 3 phases (Phase 3-5) every 36 months after recording Phase 2 per Article V, Section 5.3.6.b

Delivered with this letter are the following items:

- Informational Report for High Summit III Subdivision
- Completed application form
- Check in the amount of \$350.00

Please schedule this request for the August 12, 2014 Board of County Commissioners' meeting.

Thank you for your attention to this matter.

Sincerely,

James W. Siebert

Xc: James Houghton
Rachel Brown
Greg Shafer
Vicki Lucero
Helen Grevey

HIGH SUMMIT III SUBDIVISION

Land Owners, Phases 2-5

The Grevey-Liberman family group consists of the children and grandchildren of parents who emigrated from Europe during the 1940s. Years ago, their parents acquired a large tract of land north of Santa Fe as a long-term investment. The Grevey-Liberman family group is not a developer. After the sale of this property to Ralph Brutsche (discussed below), this land was subdivided and platted into High Summit III.

Sale and Foreclosure

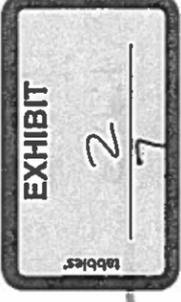
On June 24, 2005, Grevey-Liberman family group sold this property to long-time Santa Fe developer Ralph Brutsche. The sale covered approximately 493 acres. Pursuant to the terms of the purchase agreement, the Grevey-Liberman family then released 341 acres that Brutsche agreed to convey to the Nature Conservancy. It became known as Tract K. Based on information obtained from a title company, to their knowledge most or all of Tract K was later subdivided and in fact transferred to the Nature Conservancy. Brutsche then platted the remaining land into five phases to become known as High Summit III. The plat for Phase 1 was recorded in 2005 and some houses have been built on Phase 1. Pursuant to the terms of the Note and Mortgage with Brutsche, by reason of partial principal installment payments under the Note, Grevey-Liberman released their mortgage against all of the lots in Phase 1.

In 2010, Brutsche failed to make the final payment due under the Note and Mortgage in favor of the Grevey-Liberman family. The Grevey-Liberman family then filed foreclosure proceedings. Brutsche filed for bankruptcy protection in 2011. Due to court proceedings and court orders, it was not until May 2013 that a Court-sanctioned Special Master's Deed was recorded in favor of the Grevey-Liberman family group that deemed to them the portion of the property that they had sold to Brutsche that had not previously been released from their Mortgage lien. The property that was returned to Grevey-Liberman contains approximately 130 +/- acres.

History of Approvals

December, 2003

On December 9, 2003 the BCC approved the master plan and preliminary and final development plan and Plat for a residential subdivision consisting of 105 lots with 107 dwelling units. This approval included the phasing plan for the development of the property. Exhibit A is the acknowledgement letter from the County Land Use Office of the 2003 approval. Exhibit B is a reduction of the approved plan and Exhibit C is the phasing plan approved by the County Commission.



December, 2008

An administrative approval by the City and County was granted on December 31, 2008 for an amended master plan, preliminary and final development plan. This amended master plan and preliminary and final development plan was recorded with the County Clerk as Book 696, Page 18. A reduction of this recorded plan is found in the report as Exhibit D

January, 2009

Final subdivision plats for phases 2, 3, 4 and 5 were submitted to the County for approval and received a notice from the Development and Building Service Manager on January 6th, 2009 that all phases can be recorded upon submission of a letter of credit (See signed letter from Shelley Cobau attached, Exhibit E).

December, 2012

Administrative approval was granted for a one year time extension for phases 2-5 until December 31, 2013 (see Exhibit F).

August, 2013

Administrative approval was granted for a one year time extension for phase 2-5 until December 31, 2014 (Exhibit G)

Jurisdictional Issues

High Summit III was initially approved under extraterritorial jurisdiction with the review committees consisting of City and County representatives and elected officials with the County having the greater representation on the committees. In 2008 the City and County entered into a settlement agreement for the phased annexation of lands within the urban area. With the acceptance of the settlement agreement the City assumed administrative control over land use review and permitting for Area 18, which included the High Summit III development. The City and County later amended the settlement agreement. In January 2014, Area 18 was removed from the City's future annexations and is now solely under County jurisdiction.

Water and Sewer

Water is provided by the City of Santa Fe under an agreement with Ralph Brutsche who was responsible for paying for the tank and pumping facilities to serve the upper elevation within Area 18. The tank and pump station for the water system serving the Summit Subdivisions are located in phase 1 of High Summit III. This water system was not included in the consideration of transfer of water infrastructure between the City and County when the annexation was completed in January of 2014. The City is currently maintaining the tank, pump station and associated facilities within phase 1 of High Summit III. The ultimate ownership of the water facilities in Phase I has yet to be determined.

All of the Summit Subdivisions are served by a private sewer system maintained by the Homeowners Association. This sewer system which uses grinder pumps and low pressure lines

carries effluent to a City sewer line at the south end of High Summit III. There is a fee that is collected by the City at the time of building permit as compensation for the Utility Expansion Charge. Each lot owner also pays a monthly fee to the City for the use of the City sewer facilities.

REASONS FOR DELAY IN THE COMPLETION OF INFRASTRUCTURE AND LACK OF PROGRESS IN PHASING SCHEDULE

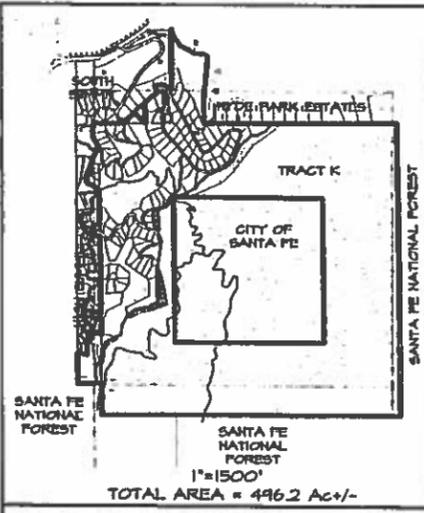
Unfortunately, Grevey-Liberman family did not get ownership of the property out of foreclosure until May, 2013. When the Grevey-Liberman family did acquire ownership and met again with the City of Santa Fe, they learned for the first time that the City of Santa Fe would likely no longer have jurisdiction over the platting and planning of this property as it was being turned back to the Santa Fe County. Grevey-Liberman representatives met with representatives of the Santa Fe County to discuss this dilemma in August, 2013. Unfortunately, since no final action was taken on the transfer of platting and planning authority until January, 2014 (when the necessary government action was taken to restore platting and planning jurisdiction over High Summit III to the County) nothing was able to be done in 2013 with respect to this property.

As stated below, the Grevey-Liberman family is requesting further extensions of time before finalizing the infrastructure improvements and recording the plats for Phases 2-5, while preserving the entitlements and provisions of the approved plats for, among other things, the following reasons:

- Grevey-Liberman group is not a developer and will have to market this property to a potential developer. Market conditions since 2007 have been extremely depressed and remain depressed. Grevey-Liberman needs additional time to allow the market to recover.
- Circumstances outside their control (the Brutsche default, the Brutsche bankruptcy action, various Court orders, delays in the court proceedings, the delay caused by the transition of platting and planning jurisdiction over High Summit III from the City back to the County) (all to the detriment of Grevey-Liberman as far as being able to market their property) warrant the extension requests.
- Each meeting with governmental officials and others has consistently elicited the same response – “What a mess!” There are numerous issues now that the property is back in the private control of the Grevey-Liberman family that require cooperative resolution with the County of Santa Fe; the Homeowners’ Association; Los Alamos National Bank (who acquired through foreclosure the unsold lots in Phase 1); the City of Santa Fe/County of Santa Fe with respect to an existing water agreement and who will provide water service in the future and under what circumstances; and many, many other issues for which additional time is both necessary and appropriate.

- If the extensions are not granted, the property will basically revert to unplatted raw land to the substantial economic detriment of Grevey-Liberman. Yet the adverse impacts will go far beyond Grevey-Liberman interests. It will adversely impact the Homeowners' Association, the owners of the platted lots and tracts in Phase 1, who will have to disproportionately share in the cost of maintaining roads and utilities, and the County government if they have to deal with a situation far different than orderly development of the property.

For these reasons, Grevey-Liberman family is requesting a modification to the preexisting phasing program to extend the date for Phase 2 to December 31, 2017, for Phase 3 to December 31, 2020; for Phase 4 to December 31, 2023; and for Phase 5 to December 31, 2026.



MASTER PLAN AND FINAL DEVELOPMENT PLAN FOR HIGH SUMMIT III SUBDIVISION
T111, R10E, Sections 19, 18, 21 & 22, Santa Fe County, New Mexico

Dedication and Affidavit
Know all persons by these presents that the undersigned owner has caused this Master Plan and Final Development Plan to be prepared. All that appears on this Plan is made with the free consent and in accordance with the desires of the undersigned owner. This development lies within the planning and platting jurisdiction of the City and County of Santa Fe, New Mexico. The purpose of this plan is to create a subdivision of 107 residential lots/units.

Owner
Ralph L. Brutsche
Ralph L. Brutsche, President of High Summit Corporation, A New Mexico Corporation

The foregoing was sworn, acknowledged and subscribed before me by Ralph L. Brutsche on this 6th day of June, 2005.
Notary Public: *Sherril L. Sanchez*
My Commission Expires on 12-31-2006

COUNTY AND CITY APPROVALS
Approved by the Extraterritorial Zoning Authority at their meeting of DECEMBER 4, 2004
Calvin Robinson, Jr. 6/13/05
City Clerk

Approved by the Extraterritorial Zoning Commission at their meeting of NOVEMBER 13, 2004
Robert M. J. ... 6-1-05
County Development Permit No. 05-4T10

Approved by
Selma ... 6-22-05
County Land Use Administrator

Approved by
... 6-2-05
County Fire Marshal

Approved by
... 6-1-05
County Public Works Director

Approved by
... 6/21/05
City Subdivision REVIEW

Approved by
... 4/2/05
City Planner

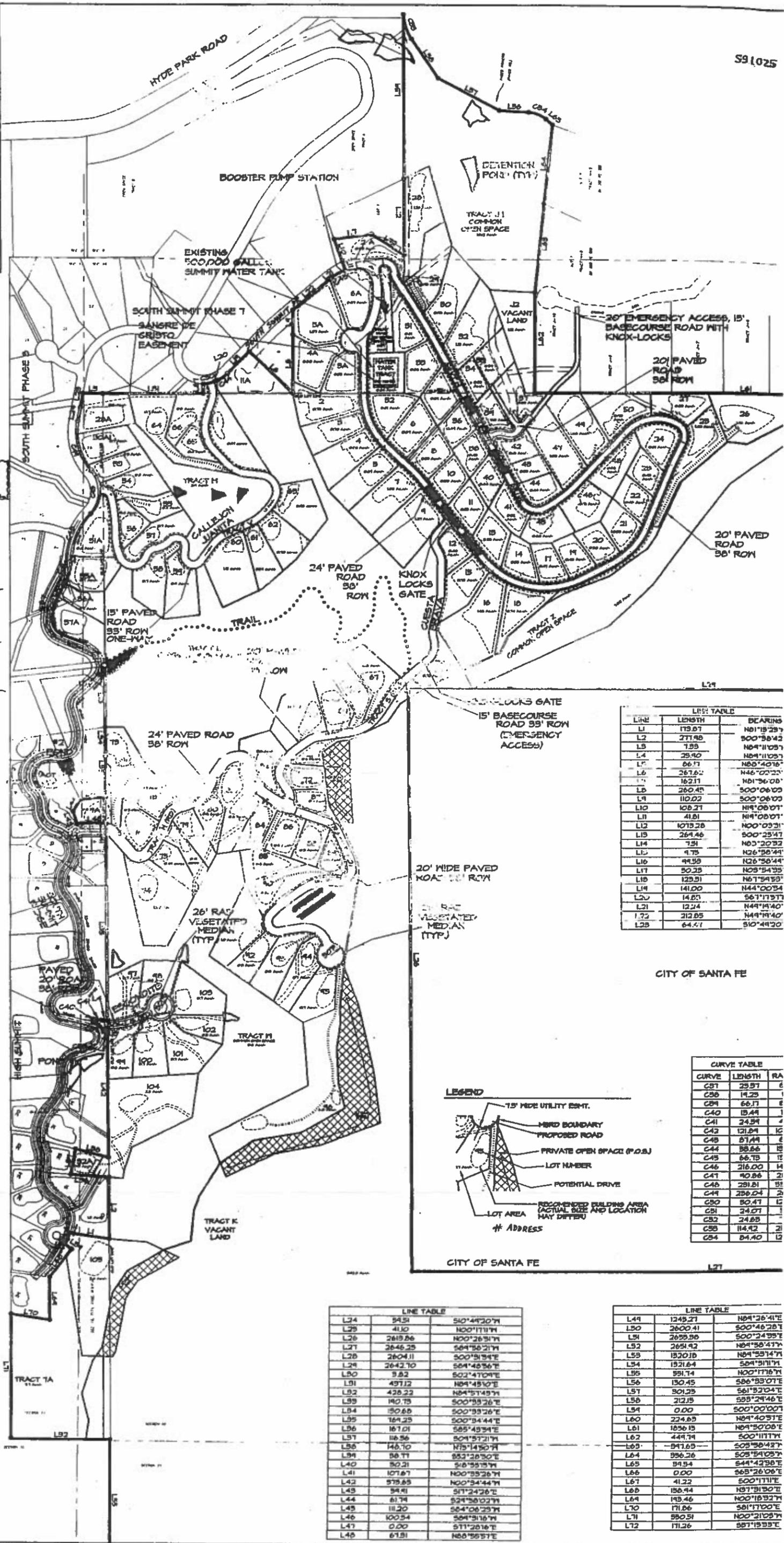
This Master Plan and Final Development Plan depict general lot layouts and open space acreages. The final lot layout and open space tracts are governed by the final recorded subdivision plots for each phase of the development. Total number of lots/units and total open space shall be limited and required by the subdivision approval for this development.

SITE DATA

Total Project Area	496.2 Ac +/-
New Development	154 Ac +/-
Tract K	342 Ac +/-
Total	496.2 Ac +/-
Allowable Density	0 Ac +/-
Req. Acreage for HOP Homes	0 Ac +/-
Density @ 25 Ac/lot	154/25 = 6.16 lots
Open Space Ratio of 45% Used	154 x 45% = 69.3 Ac. Required
Density Bonus to 60%	6.16 x 60% = 3.696 lots
Allowable Lots	6.16 + 3.696 = 9.856 + HOP Homes
Actual Total Dwellings Units	107
Number of HOP Homes	14
Number of Market Homes	93
Required Open Space	94.3 Ac.
Actual Open Space	
Common Open Space	60.85 Ac. +/-
Private Open Space	4.5 Ac. +/-
Private Open Space on Lots	8.2 Ac. +/-
Total	73.55 Ac. +/-
Minimum Lot Size	0.5 Ac. +/-
Maximum Lot Size	8.0 Ac. +/-
Average Lot Size	0.78 Ac. +/-

Project has paved roads with City Water and Sewer Service.
All homes to have residential fire suppression systems. There is a zero lot line between Lots 46 and 47. This development is subject to a housing opportunity agreement with the City of Santa Fe for 14 Lots.

- NOTE:**
- All lands within the MSRD Boundary shall be undisturbed and left in their natural condition.
 - The following lots from South Summit are modified with this plan: Lots 7-6, 11, 28, 30, 51, 55, 56, 57.
 - The following lots from High Summit I are modified with this plan: 1 and 52.
 - Each lot shall have a minimum of 10% of the lot left in its natural condition as Private Open Space.

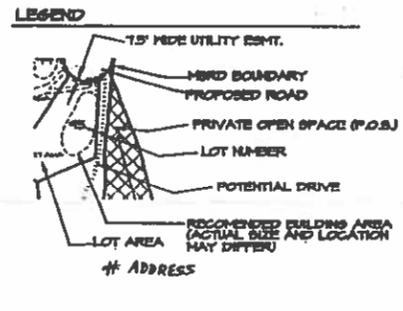


LINE TABLE

LINE	LENGTH	BEARINGS
L1	173.67	N81°15'29"
L2	271.98	S00°38'42"
L3	1.99	N84°11'03"
L4	28.40	N84°11'03"
L5	86.17	N85°40'16"
L6	267.62	N46°00'23"
L7	162.11	N81°36'08"
L8	260.45	S00°06'09"
L9	110.02	S00°06'09"
L10	108.27	N19°06'07"
L11	41.81	N19°06'07"
L12	1079.28	N00°03'31"
L13	264.46	S00°23'47"
L14	7.51	N83°20'32"
L15	9.75	N26°58'44"
L16	94.58	N26°58'44"
L17	50.28	N26°58'44"
L18	123.51	N67°54'53"
L19	141.00	N44°00'34"
L20	14.87	S67°17'57"
L21	12.24	N49°18'40"
L22	212.85	N49°18'40"
L23	64.57	S10°49'20"

CURVE TABLE

CURVE	LENGTH	RA
C37	25.97	6
C38	14.29	6
C39	66.77	6
C40	15.44	1
C41	24.54	4
C42	121.84	10
C43	87.44	6
C44	88.66	15
C45	66.75	15
C46	216.00	14
C47	40.86	21
C48	281.81	35
C49	286.04	21
C50	80.47	15
C51	24.07	1
C52	24.68	1
C53	114.42	21
C54	84.40	12



DESIGN ENGINEER
High Summit III
Master Plan & Final Development Plan
08/18/05

LINE TABLE

L34	94.51	S10°49'20"
L35	41.80	N00°17'17"
L36	2819.86	N00°26'51"
L37	2646.25	S84°58'21"
L38	2604.11	S00°31'51"
L39	2642.10	S84°48'56"
L40	3.82	S02°47'04"
L41	497.12	N84°45'10"
L42	428.22	N84°51'45"
L43	140.75	S00°33'26"
L44	50.68	S00°33'26"
L45	164.25	S00°34'44"
L46	167.01	S85°43'34"
L47	18.56	S04°57'21"
L48	146.70	N75°14'50"
L49	88.77	S53°28'50"
L50	80.21	S8°55'59"
L51	107.87	N00°33'26"
L52	979.85	N00°34'44"
L53	94.41	S11°24'26"
L54	81.74	S24°58'02"
L55	111.20	S84°08'29"
L56	100.54	S84°31'16"
L57	0.00	S11°28'16"
L58	67.51	N88°58'57"

LINE TABLE

L49	1245.27	N84°28'41"
L50	2600.41	S00°46'28"
L51	2655.86	S00°24'59"
L52	2651.92	N84°58'47"
L53	1520.18	N84°55'14"
L54	1521.64	S84°51'11"
L55	991.74	N00°17'16"
L56	130.45	S86°53'07"
L57	801.25	S61°32'04"
L58	212.15	S85°24'46"
L59	0.00	S00°00'00"
L60	224.63	N84°40'57"
L61	1856.15	N84°50'08"
L62	444.74	S00°11'17"
L63	-891.63	S05°58'43"
L64	386.26	S05°54'05"
L65	34.54	S44°42'38"
L66	0.00	S65°26'06"
L67	41.22	S00°17'11"
L68	158.44	N87°51'30"
L69	149.46	N00°18'32"
L70	171.86	S81°17'00"
L71	880.51	N00°21'03"
L72	111.26	S87°13'33"

XIII. A. 8. EZ CASE # S 03-4770 - High Summit III Subdivision. Eight Summit Corp. Ralph Brutsche, Applicant, Karl Sommer, Agent, Request Final Development Plan and Plat Approval for a Residential Subdivision Consisting of 105 Lots with 107 Dwelling Units on 150 Acres, and a Single Tract (Tract "K") Consisting of 342.3 Acres in the MSRD. This Request also Includes the Following Variances of the Extraterritorial Subdivision Regulations: To Allow Two Cut-de-sac with Lengths Greater than 1,000 Feet and to Allow the Replacement of Standard Curb & Gutter with Stone. The Property is Located Off Hyde Park Road (State Road 475), Southeast of the Summit Subdivision within Sections 15, 16, 21 and 22, Township 17 North, Range 10 East (Commission District 1)

MS. LUCERO: On November 13, 2003, the EZC met and acted on this case. The decision of the EZC was to recommend approval of the request. The current property consists of 496.2 acres located partially in the Mountain Special Review District. The portion of the property located outside of the MSRD is approximately 150 acres. The applicant is proposing a lot-line adjustment between the proposed High Summit III Subdivision and the adjacent subdivisions known as "South Summit" and "High Summit," which are also owned by Ralph Brutsche.

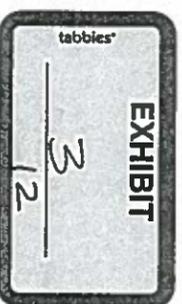
"The applicant is requesting preliminary and final plat and development plan approval for a subdivision consisting of a vacant tract of which two will be allowed guesthouses for a total of 107 dwelling units. The subdivision will be developed in nine phases. The first phase is 23 lots and is estimated to be complete by the fall of 2004. Thereafter, one phase will be constructed each year.

A portion of the property is located in the Basin Fringe Hydrologic Zone where the minimum lot size is 12.5 acres. The applicant is proposing to utilize City water, therefore, the minimum lot size would go down to 2.5 acres per dwelling unit which would allow 60 dwelling units. The remainder of the property is located within the Mountain Hydrologic Zone.

The applicant is proposing to utilize the density bonus option in the EZO, which allows an increase in the percentage of the number of dwelling units or lots allowed by the underlying zoning.

In the staff report it states that they're proposing to use a 60 percent open space density bonus. The applicants have recalculated the number to use the 45 percent density bonus option and that was one of the handouts that I just handed out. [Exhibit 3] They still meet density under the 45 percent open space bonus.

Variances: The applicant's request also includes four variances: a variance of Section 3.5.6 of the ESR to allow stone in lieu of standard curb and gutter, a variance of Section 3.5.2.F.2.b.2 of the ESR to allow two cut-de-sacs with lengths greater than 1,000 feet, a variance of Section 12.C.1.b.2 of the EZO to allow disturbance of 30 percent



slopes, and a variance of Section 12.C.1.C.2 of the EZO to allow more than 50 percent of 70 structures to be built on 20 percent to 30 percent slopes. The applicant has addressed the variance review criteria in Exhibit E.

Recommendation: The applicant is requesting two variances of the Extraterritorial Subdivision Regulations. The Fire Marshal does not have an issue with the variance for the cul-de-sac length, provided that certain standards are met. As far as the variance to allow stone rather than curb and gutter, stone was used in the adjacent subdivisions and does not appear to pose any problems.

This proposal is in conformance with all other requirements of the Extraterritorial Zoning Ordinance and Subdivision Regulations. Staff's recommendation and the decision of the EZC was to recommend approval of the requested variances, with preliminary and final development plan and plat approval for a 107-lot residential development subject to the following conditions. Mr. Chair, may I enter the conditions into the record?

[The conditions are as follows:]

1. All redline comments must be addressed.
2. Preliminary and final development plan and plat with appropriate signatures must be recorded with the County Clerk.
3. The grading and drainage plan must be signed and sealed by a Professional Engineer.
4. Road names and addresses must be approved by Rural Addressing.
5. Protective easements must be established around the two significant archeological sites unless the State Historic Preservation Office approves a mitigation/treatment plan.
6. Dedication of protective easements with metes and bounds must be shown on final plat. Water use will be restricted to 0.25 acre feet per dwelling per year. Water restrictive covenants must be recorded with the final plat. A water meter must be installed for each dwelling unit and annual readings must be submitted to the County Hydrologist by December 31st of each year.
7. The standard County water restrictions, final homeowner's documents, and disclosure statement must be recorded with the final plat.
8. All utilities must be underground.
9. A detailed signage plan must be submitted for review and approval prior to final plat recordation.
10. The applicant must submit solid waste fees as required by the subdivision regulations.
11. All lots are subject to the Santa Fe County Fire and Rescue Impact Fees. This must be clearly noted on the final plat.
12. The applicant must submit an engineer's cost estimate and financial guarantee for all required improvements (i.e. road construction, street and traffic signs, fire protection, etc.). A schedule of compliance projecting time period for completion of improvements must be included. Upon completion, the applicant must submit a certification by a registered professional engineer that improvements have been completed according to the approved development plan.

13. Compliance with applicable review comments from the following:

- a) State Engineer's Office
- b) State Environment Department
- c) Soil & Water District
- d) State Highway Department
- e) County Hydrologist
- f) Development Review Director
- g) County Fire Marshal
- h) County Public Works
- i) County Technical Review Division
- j) State Historic Preservation Office

14. The following note must be put on the plat: *Permits for building construction will not be issued until required improvements for roads, drainage, and fire protection have been completed as required by staff.*

MS. LUCERO: Thank you. I also just wanted to mention that I handed out as well a letter of opposition for this project. [Exhibit 4]

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Questions of Ms. Lucero. Commissioner Duran.

COMMISSIONER DURAN: Vicki, your recommendation says that the Extraterritorial Zoning – I'm sorry. It was staff's recommendation and the decision of the EZC to recommend approval of the requested variances. You make no mention that the EZA approved this.

MS. LUCERO: Mr. Chair, Commissioner Duran, this case did go before the EZA last week and the EZA acted on the master plan request and two other variances. So this is separate from what the EZA acted on last week.

COMMISSIONER DURAN: This is separate from what the EZA acted on?

MS. LUCERO: The EZA granted, was acting on the master plan request, and that was approved. The BCC is now taking action on the plat request.

COMMISSIONER DURAN: On the plat request. Do you have -- I'll save this for later if I need to. Thank you.

CHAIRMAN SULLIVAN: Vicki, could you explain that to me? Why are we not just also doing the master plan approval?

MS. LUCERO: Mr. Chair, because this project is in the Two-mile EZ District so the EZA has authority over master plans in that area. So they have the final decision on the master plan request. And now the BCC has the final authority to approve or disapprove the plat.

CHAIRMAN SULLIVAN: Okay, so you say in your letter that it's coming to the BCC for master plan, preliminary and final development plan approval and plat approval, but it's really not coming for master plan approval.

MS. LUCERO: Mr. Chair, you're correct. The statement under the issue reads

wrong. It shouldn't include master plan.

CHAIRMAN SULLIVAN: Okay. So final, preliminary, everything's coming in one bunch here. Preliminary final and plat approval. So the staff is comfortable that all the details are worked out down the nth degree and we're ready for plat approval.

MS. LUCERO: Mr. Chair, that's correct.

CHAIRMAN SULLIVAN: Okay. You said there were two variances, but you mentioned also the slope variances. The variances for disturbance of 30 percent slopes. Are we not also, is that not also a part of the process?

MS. LUCERO: Mr. Chair, there were two variances that were granted by the EZA as part of the master plan approval. That was to allow more than 50 percent of structures to be locate on 20 to 30 percent slopes, and disturbance of 30 percent slopes for road construction and building construction. Those requirements were taken out of the Extraterritorial Zoning Ordinance, and that's why those variances went before the EZA. The variances that are before you tonight are variances to the Extraterritorial Subdivision Regulations.

CHAIRMAN SULLIVAN: Okay. So we don't, we're not acting on those tonight.

MS. LUCERO: No. Just the cul-de-sac length and stone versus curb.

CHAIRMAN SULLIVAN: Okay. Commissioner Duran.

COMMISSIONER DURAN: Vicki, so the EZA last week approved master plan approval and that master plan approval was based on the approvals of the EZC, correct?

MS. LUCERO: Mr. Chair, Commissioner Duran, the EZC acted on both the master plan and the plat. They're the recommending body for both master plan and plat approval.

COMMISSIONER DURAN: So the recommendation in front of us from the EZC is the same recommendation that the EZA reviewed when they approved the master plan.

MS. LUCERO: Mr. Chair, Commissioner Duran, the EZC made a recommendation on both the master plan and the plat. So after the EZC it got split up to the master plan and those conditions. The EZC had a list of conditions that they approved and we separated them. So only those relevant to the master plan were heard by the EZA.

COMMISSIONER DURAN: Not the plat.

MS. LUCERO: That's correct.

COMMISSIONER DURAN: Not the final plat. So do you think that it's appropriate for us to know, to have details of the motion made by the maker at the EZA? The content of the motion had some requirements in their conditions that dealt with water concerns and I forget what the other ones were but I think that they're important to this body to know what that motion was, because there might be some testimony tonight that we're going to be asked to consider when in fact they were considered and incorporated into the motion at the EZA.

MS. LUCERO: Mr. Chair, Commissioner Duran, I do have a list of those conditions that were approved. And they certainly could be relevant to the plat approval as

well. If you like, I can run down the revised conditions.

COMMISSIONER DURAN: How many are there?

MS. LUCERO: I believe there's about four?

COMMISSIONER DURAN: Would you mind, Mr. Chair?

CHAIRMAN SULLIVAN: Not at all.

MS. LUCERO: One of the conditions was that any major changes in the planning design would go back to the EZA for approval.

CHAIRMAN SULLIVAN: Does that mean any major changes that would be made here tonight, because if this is final plat approval, this is all she wrote.

MR. CATANACH: Mr. Chair, if there's any changes as they're building out the subdivision, if there's any changes in lot and road layout or design, that that should come back to the EZA before --

COMMISSIONER DURAN: Rather than the EZC which is where those changes were going to go, or to staff. Staff was able to make those calls and we wanted to be apprised of any changes at the Board level.

MR. CATANACH: I think that was the basic intent, because certainly staff makes decisions on minor changes, but I think the intent was that any changes. Yes.

CHAIRMAN SULLIVAN: And it wouldn't normally, once the EZA has approved the master plan, the preliminary and final plans wouldn't normally go back to them. Is that correct?

MR. CATANACH: That's correct.

CHAIRMAN SULLIVAN: They only come to the BCC, because it's an existing subdivision.

MR. CATANACH: That's correct.

CHAIRMAN SULLIVAN: Okay, so you were adding a condition then at the EZA, Commissioner Duran, that said if you're making any changes you want it to come back to the EZA.

MR. CATANACH: And I think, I'm sorry, Mr. Chair, Commissioners, I think not only in lot and road layout design, but certainly any changes that have to do with density or use and again, I think that the intent was that there was some concern that any expansion, any increase in density, any other change other than what was permitted under the master plan for single family homes. Those type of things. So again, it might be a determination on the part of staff as to whether a change needs to come back to the Board having to do with a plat and development plan, or if it's a change that's relevant to the zoning for use and density, whether that would have to go back to the EZA. So again, in trying to determine what kind of change and which committee it would have to go to.

CHAIRMAN SULLIVAN: Okay, but I wouldn't see them having any changes in density once x-number of units are approved. That's it, isn't it? They're not going to add more units up on the site, are they?

COMMISSIONER DURAN: Mr. Chair, I think we were trying to appease a concern that the neighborhood had that in the past there was some changes made at the staff

CHAIRMAN SULLIVAN: No, no. That was up on the Summit.

MS. LUCERO: I believe it was daylight hours.

CHAIRMAN SULLIVAN: Well, we may not agree to that. Is that what's in the condition, or what's it say?

MS. LUCERO: No, Mr. Chair, the condition wasn't specific. That's what the applicants are -

CHAIRMAN SULLIVAN: Are wanting, but it just said open to the public means open to the public. Okay. If it's not conditioned I would assume that. Okay. And that's the fifth condition.

MS. LUCERO: Yes. Those were all the additional conditions that were imposed by the EZA.

COMMISSIONER DURAN: Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Okay, other questions for Vicki? I had one, Vicki, or two. I don't understand what you just handed out. This looks like mumbo-jumbo. But without trying to understand it, tell me does this mean that they're reducing the open space. They've decided that the open space bonus is now only 45 percent so they only need to provide 45 percent open space instead of 60?

MS. LUCERO: Mr. Chair, that's correct. They did recalculate the figures using the 45 percent open space density bonus, and even with that, they still meet the density that they're proposing.

CHAIRMAN SULLIVAN: Does that mean that they're going to do more dense development on subsequent phases? Why did they go about recalculating this?

MS. LUCERO: No, they just, Mr. Chair, they basically just used different numbers. The lot sizes, the lots weren't changing. I believe it was the private open space within the lots that changed. But they're not adding any additional lots or any additional units.

CHAIRMAN SULLIVAN: How much open space are they required to provide?

MS. LUCERO: As part of a 45 percent density bonus?

CHAIRMAN SULLIVAN: Okay, it was 60 percent when I read it and now it's 45 percent.

MS. LUCERO: That's correct. As part of the 60 percent that they're originally proposing, they were required, I believe to do, I believe it was 91 acres of open space. And now, under the 45 percent density bonus they're required to provide 69.3 acres of open space.

CHAIRMAN SULLIVAN: So it's reduced from 98 to 69 acres. But if they're not changing the lot size or the lots, then where did it go?

MS. LUCERO: Mr. Chair, originally, they had more open space proposed on each individual lot that was private open space, so they're actually removing some of that private open space to give the lot owners a little more flexibility as to what they could use.

CHAIRMAN SULLIVAN: So you can be closer to your neighbor, as it were. You can build on it. And then, there was a letter dated October 29th from the County Hydrologist indicating that their water report was incomplete. And their water, there was a statement made that it didn't constitute a water conservation report nor a water budget. Has that

Karen Bailey are here from the Canyon Neighborhood Association and in the record, which we'll have here tonight, there is a copy of the land use agreement that was talked about and we would specifically agree to that as a condition of our subdivision plat approval.

I'd like to get to just a couple of things first about the water conservation report. In the EZ Subdivision Regulations, I'm not aware of any water conservation report that is necessary, but we have a water commitment from the City and we have quarter acre-foot limitations on each and every lot in the subdivision. If there is some additional report that is required by the County Land Use Code I'm not aware of it as applying in the EZ. The EZ, as you all know, has an ordinance, that is a zoning ordinance, the Extraterritorial Zoning Ordinance and the Extraterritorial Subdivision Regulations. The Land Use Code, insofar as I'm aware, doesn't apply here with respect to that. But I do believe that the water conservation measures that are talked about are typically contained in our covenants and we would certainly be glad, Mr. Wust, to include those in our covenants if that's the concern. But we are limited to a quarter acre-foot.

So, just to address that offhand, I'd like to approach you and hand out something we'd like to get in the record tonight and I'm not so sure how much we'll discuss it. May I approach? [Documents on file with County Clerk.]

CHAIRMAN SULLIVAN: And while you're handing that out, Mr.

Sommer, Mr. Wust mentioned a letter from the City regarding water availability that he hadn't seen and I don't see that in the packet either. Do you have that?

MR. SOMMER: I do have a copy of it and I'll make it available to you. The manner in which that comes to the Extraterritorial Zoning Authority is from a letter from Robert Jorgensen. It's a memo that says water is available on the system. The City staff memo regarding this project confirms that we have water from the City and sewer available from the City and I can provide you a copy of that. I just need to dig it out here. I think a copy was provided to County staff and City staff before the EZA. So I'll dig that up if I can.

CHAIRMAN SULLIVAN: But is that a letter from the County Manager or the City Manager, the way they normally come, or rather the City Utilities Department, indicating water availability?

MR. SOMMER: It's from the City Utilities Department and it's from Robert Jorgensen. It's dated November 13th. It's in your packet at NB-5-16.

COMMISSIONER DURAN: In which packet? This one? No, the one from County staff that you've got.

CHAIRMAN SULLIVAN: Okay.

MR. SOMMER: I'd also like to get in the record because I don't think --

CHAIRMAN SULLIVAN: Wait a minute. Before you jump ahead there.

This just says water service will require an agreement to construct and dedicate public improvements. It doesn't say they're approving anything. It says the referenced subdivision is located within the Summit service area and can be served from the Summit area water

system. Water service will require an agreement to construct and dedicate public improvements. Water service to the referenced project is subject to all City rules, etc., etc., etc. This isn't an agreement though. This isn't a service --

COMMISSIONER DURAN: Mr. Chair, could I just ask one question of the Hydrologist? Did you get that word that they had water service from Karl, or did you talk to someone at the City?

MR. WUST: Mr. Chair, Commissioner Duran, actually, Vicki told me that they had a letter.

CHAIRMAN SULLIVAN: The he-said/she said kind of thing.

COMMISSIONER DURAN: And Vicki, where did you here it from?

CHAIRMAN SULLIVAN: Where did you hear it Vicki? Let's find out where this rumor came from.

MS. LUCERO: Mr. Chair, Commissioner Duran, that was actually, City staff was at the EZC meeting and Bob Siqueiros stated that.

CHAIRMAN SULLIVAN: He said that they had a water service letter.

MS. LUCERO: Right. That it was in place. That there weren't any issues as far as water.

CHAIRMAN SULLIVAN: Okay, and Mr. Sommer, do you have a copy of it in your file, there?

MR. SOMMER: I have a copy of the City report and in addition, Galen Butler, the head of the City's water utility was at the Extraterritorial Zoning Authority with their chief counsel on water issues, Ms. Singer. And both of them confirmed on the record under oath that we have water from the City and sewer available from the City.

COMMISSIONER DURAN: I will concur with. I was at that meeting.

CHAIRMAN SULLIVAN: And could you give us a copy of that paper?

MR. SOMMER: I believe that the City staff reports are a part of your records, are they not, Vicki? I think you have them in your packet.

CHAIRMAN SULLIVAN: Okay. Maybe I just missed it. I have school report, Fire Marshal --

COMMISSIONER DURAN: Do you think we can move on, Mr. Chair?

CHAIRMAN SULLIVAN: Yes, but I'd like -- I don't see, again, we're on final plat here and I don't see a letter from the City saying that you have water availability. I understand what you're saying, in the master plan hearing that there was testimony that you had that and Commissioner Duran confirms that.

MR. SOMMER: If I can direct your attention, Chairman Sullivan to NB-5-6, which is in your packet, page NB-5-7, it says from the City of Santa Fe, dated November 13th, proposed development will be served by the City utility extensions, sewer and water. We have -- I don't know exactly what you're looking for from us.

CHAIRMAN SULLIVAN: What I'm looking for is -- that's from the Planning Department. I'm looking for a water service availability letter, is a letter on City letterhead. We've seen hundreds of them. It comes from the Utility Department committing

x-number of acre-feet. We just saw one in the previous project you had.

MR. SOMMER: Well, what you saw on the previous was from 1999. Now, what's in effect at the City is a Resolution 2002-2 that develops a technical review team, of which Mr. Bob Siqueiros is a member. They are the ones that inform the applicant and the public bodies as to whether there's water. So it comes now from the technical review team. You don't get what you are referring to as a water availability statement anymore. What you get is a confirmation from that team in the form that Mr. Jorgensen gave us and that Mr. Siqueiros gave us. That's the form in which water is confirmed by the City in addition to the sworn testimony of the Utility Director on Thursday that water is available from the City's utility.

So that's the manner and form in which it comes these days, since 2002.

CHAIRMAN SULLIVAN: Okay.

MR. CATANACH: Mr. Chair, I would refer you to page 5-16 of your packet and that references water service.

CHAIRMAN SULLIVAN: Yes, he mentioned that earlier. That was the one that says that water service will require an agreement. So I guess an agreement hasn't been consummated yet with the City. Is that what you're saying?

MR. SOMMER: A service agreement doesn't get consummated until you have an approval from their plans, and you have an agreement to construct and improve their system. So that's when you get a service agreement, and that's at the very end of the process. You don't get one up front. You don't get a service agreement. They will not give you an agreement to serve until you've met all of their conditions related to the construction, dedication and improvement of their system.

CHAIRMAN SULLIVAN: Okay. So you'll get that before you start construction.

MR. SOMMER: The answer is yes. We will have an agreement to construct and improve before construction begins.

CHAIRMAN SULLIVAN: Okay. Go ahead.

MR. SOMMER: I'd like to also put in the record the actual plans that are before you. Often you don't get a chance to look at them but I'd like to make sure that they're in the record tonight.

What we'd like to do tonight is we'll have Mr. Schutz go through a little bit of the history of the project and discuss some of the density issues related to it. Ms. Guerrerotiz will go through some of the individual specifics of the project from a technical standpoint, and in the end I would like to address the issues raised in the packet that I gave you that is part of the record consisting of a summary and ten tabs of documents. We'll make that as brief and we'll get through that as quickly as possible. So with that, I'm going to turn it over to Mr. Schutz to go through some of the history and some of the density issues. Thank you.

[Duly sworn, David Schutz testified as follows:]

DAVID SCHUTZ: Thank you, Mr. Chair, members of the Commission. It

documents that address density and that are relevant to this case, the first one is your own Land Use Code, the Extraterritorial Zoning Ordinance.

This is what I got out of the Extraterritorial Zoning Ordinance and I've highlighted the significant portions of it, and the title is density using imported water service in the rural area and it talks about three principal goals. One is the preservation and sense of open space. We've certainly done that, dedicated some 350 acres into open space. The protection of groundwater resources. It was through Summit's efforts that water and sewer were extended into this area and now the beneficiaries are the neighbors and all of the folks that are served by the sewer and water system. And the provision of more affordable residential development.

You move down, and the second paragraph there, the purpose of the open space density bonus transfer option for developments proposing use of imported water in the rural area district are to preserve an open space feeling, to encourage the use of imported water, and to create variety in residential development patterns. It goes on and continues, To grant density increases based on an approved formula for density bonus and objective open space ratio and density transfer for residential development outside of the urban growth area which use imported water for regional water service. If region water is to be provided by Sangre de Cristo Water Company, the development shall receive prior approval for any water service area boundary extension. Which we have. We did that in the early nineties.

Developers using the density bonus shall provide areas of dedicated open space. We've done that. And then on the next page, 22, density transfer or clustering of lots. We've done that. And provide alternatives to the use of individual septic systems. It continues. So the ordinance is very clear. If you look at the bottom of page 22 it says, Objectives: Provide incentives for developers to build affordable housing subordinated regulations and capital funding programs. And on the next page, 23 it continues, item B, Granting of density bonuses to developers who provide affordable housing in their projects. I can tell you unequivocally, we are the only developer in the northeast quadrant that has provided any, or are going to provide any affordable homes in this area.

The other significant document that I want to bring to your attention, Mr. Chair, is the Hyde Park Road neighborhood plan that was adopted by the authority in 1994. In it, projections were made by the planning group as to what the holding capacity of this property would be. And if you look in the package that Karl gave you on the highlighted yellow tab, you will see a chart, and I'll pass this out. This comes right out of the Hyde Park Road Planning Group neighborhood plan and at that time --

COMMISSIONER DURAN: Excuse me, David --

MR. SCHUTZ: Tab 9, Commissioner. So if you look at that chart, it was projected back in 1994 that this property was projected to have a holding capacity of 118 lots, 100 units that were supplied by water and sewer and it was presumed that 18 lots would not be served by water and sewer and the density would be 12.5 acres. And so even at that early stage of the game we contemplated 118 lots on the Grevey property. Today

up with an extraordinary agreement for the Canyon Neighborhood Association and I'm not going to go through it specifically. But it achieves the purposes they set out for us. It has teeth in it for its enforcement, and it will be specifically enforced by the Canyon Neighborhood Association and the Audubon Center, which is the Randall Davies Audubon Center.

Let me turn to a more problem area that we ran into recently, and that is with the Hyde Park Road Planning Group. It's been in the press lately. Frankly, I was surprised tonight to see that we don't have the level of opposition that we had generated at the last hearing last week. Here's the story. On August 16th we went to the Hyde Park Road Planning Group. That planning group consists of five founding members, each of which has a veto vote over anything that that group does. And that means that all of the decisions of that group have to be unanimous. We went to them because Mr. Brutsche's organization is a member of that group. We sat down in my office on August 16th. We went through our plan and at the time we went through our plan it had 131 units. The group unanimously agreed to support and approve the project. That was on August 16, 2003. That was the first step we took to reach out to our immediate neighbors.

We left that meeting and you will see behind tab 1 the testimony of Paul Dunn. He spoke at the Extraterritorial Zoning Authority, under oath, and he said, "When we walked away, when I walked out of that meeting there was no doubt in my mind that we as the Hyde Park Road Planning Group had approved this particular development. What happened next was, you have also behind that document the letter from Mr. Ray Olson. Mr. Ray Olson is here tonight. He's been here all night. He wrote you all a letter and he confirms that there was a unanimous approval of our plan and that the group agreed to support us publicly in the hearings before this body, the EZC and the EZA. After that, and you'll find in the next document behind that tab, you'll see that I got a call from the *New Mexican*, Ms. Ann Constable wrote a letter about our dealings with the Canyon Neighborhood Association. On page 2 of that article, I've highlighted in blue for you what I told her as a result of a meeting I had with the Hyde Park Road Planning Group and the article says, and this went out across the community, "According to Sommer, the Hyde Park Road Planning Group supports the new plan. That was one month after we met.

From the time of that article and the time of that meeting, up until two weeks ago, we had absolutely no opposition from the Hyde Park Road Planning Group. So what happened? As you all know, there's been a great deal of controversy. Let me summarize it by saying this. Mr. Duke Klauck received approval from the Extraterritorial Zoning Authority to expand his Ten Thousand Waves facility. And you will see that on this map, Ten Thousand Waves is located right here. It's in the county, not inside the city. It is susceptible to water service from the City system, and in fact has water service from the City system, a system that Mr. Brutsche built and conveyed to PNM, which is not owned by the City system, serves Ten Thousand Waves.

Mr. Klauck's approval includes the addition of a hotel on what is now residential property. The condition placed by the Extraterritorial Zoning Authority on that hotel on the property known as Rancho Elisa was that he go to the City of Santa Fe and get water for that. And that's what he did. He went to the City. That was the condition they placed on him, and Mr. Klauck ran into Resolution 2002-22, which is behind tab number 2. I've highlighted for

you on page 3 the two sections that are important here. One says that if you are outside the city limits and you're requesting an extension from us - I'm summarizing, obviously, paraphrasing -- you must have a prior valid, written agreement that requires us to serve you. That's what the City's condition was on extensions in the county and it has been for the last year and a half. Or, if you don't have one of those, Section 6 says you can always go to the City Council and ask us to approve your water extension.

Mr. Klauck found himself with an approval by the EZA with an uncertain water supply for his expanded development. What did he do? Instead of going to the City Council, instead of going to the City and asking for the extension, he immediately turned to Mr. Brutsche and he said, he did not ask, he demanded that we immediately assign over to him our water. And when I say "our water" we have a contract with the City, we have a prior valid, agreement that requires the City to serve Mr. Brutsche's development. It's not our water and we're not saying that we're the only ones that have the right to water, but Mr. Brutsche has a clear, unequivocal right to water from the system, because he built it. Because he conveyed it to the City.

Behind tab number three you'll see a first memo received November 10th from Mr. James Siebert who represents Mr. Klauck. On page 2 there is not a request, a basic demand that says we immediately assign the water or our right to water to Mr. Klauck, for a sufficient amount of water so that he could prove up his water under this condition from the EZA. Well, we weren't able to do that because the agreement that we have with the City is a little unclear as to what could be assigned or what cannot be assigned. Instead of working with us, I got the next memo dated November 17, 2003 from Mr. Klauck directly. And in the last paragraph, highlighted for you, Mr. Klauck goes on to tell me that unless we get him an agreement with the City by the end of November he is going to manufacture opposition from our immediate neighbors in the Hyde Park Road area in an attempt to stop us.

He euphemistically says that he's going to go on an educational campaign with the Hyde Park Road residents and the EZA Commissioners. Well, I'll tell you, last Thursday we saw the results of his educational campaign. This room was packed with 125 people who had been misinformed, misled and basically asked to come and oppose our project until Mr. Klauck got his water. If you look at the memo he says specifically, "Unless we have a signed agreement with the City this month guaranteeing water to Rancho Elisa," he does not say guaranteeing water to the entire community, he says to him, "I intend to do an educational campaign for the Hyde Park Road residents and the EZA Commissioners. You may discover considerably more opposition at your next hearing."

He also implies that a simple phone call to the decision makers may have changed the results of a public hearing. The long and short of it is Mr. Klauck manufactured and generated opposition from a group that had previously approved our project and he did so for one purpose and one purpose only and that was to blackmail Mr. Brutsche into doing something for Mr. Klauck that frankly Mr. Brutsche cannot do. Mr. Brutsche doesn't own the water system. The City owns the water system. The City passed a resolution that says, Mr. Klauck, you have to have an agreement with us that says you can have water or you've got to ask us for it. He chose not to ask for it and he chose a different tactic.

The tactic resulted in, in my opinion, in one of the most vile attacks on Mr. Brusche and Mrs. Brusche, an unfair characterization of them and their business over the course of the last 10 years. If you turn to tab 10, I've listed for you the things that Mr. and Mrs. Brusche have done for this neighborhood over the last ten years. They extended the regional water system at their expense. They have donated in excess of \$700,000 towards the purchase of open space in this neighborhood. They donated 50 acres of land along the Little Tesuque to the Trust for Public Lands. They granted public access, trail easements throughout their developments. They concaved of a development-free corridor and they've ensured that their developments have preserved that corridor. They are the only ones in this neighborhood who have done that. They've imposed restrictive covenants on their developments in the neighborhood far stricter than the Codes that apply in this area for the express purpose of preserving the quality of this neighborhood. They have entered into the written agreement with the Nature Conservancy that donates over 340 acres of land that will ultimately become public lands, hopefully in the hands of the City. They've agreed to make a very substantial donation to the Nature Conservancy. They've entered into the land use agreement with the Canyon Neighborhood Association for the express purpose preserving the ridgetops and the Aztec Springs Watershed. They're the only parties in this neighborhood to do affordable housing. They've already done the necessary retrofits on the City system to ensure that there is water available on the City system to serve this development.

You've already been through the other remaining items on that list and there are three left. I would say, the long and short of it is Mr. Brusche and Mrs. Brusche have been good neighbors. They reached out to this neighborhood and unfortunately, their good faith was repaid in a manner which frankly, was fairly offensive. And what it sought to do was to undermine their credibility with their immediate neighbors. I'm glad to say that it didn't work and that the Extraterritorial Zoning Authority found a way to really home in on the issue of water availability in this area to the neighborhood. And they imposed a condition which said, Would you please accept a condition that allows the City to determine that there is water available from this tank to serve people outside the city limits in this area from this tank. We know from our engineering experts here that this tank has the capacity to serve up to 720 residences. That's enough to serve everybody's who's requesting or might request water service outside the city limits.

With that we would stand for any questions you might have related to any of the issues that we've discussed. And I know there are other people here to speak as part of the public hearing. Thank you very much.

CHAIRMAN SULLIVAN: Questions for the applicant?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Sommer, regarding the -- I need some clarification. You have total dwelling units, 107 on 105 lots. That means two lots are going to have two dwellings on them?

MR. SOMMER: Yes. They will be house and guesthouse.

covenants that we've agreed to with them and I have no objection to doing that and that would make it specifically enforceable by the Canyon Neighborhood Association and the Audubon Center. Thank you.

CHAIRMAN SULLIVAN: Commissioner Montoya, anything else?

COMMISSIONER MONTOYA: Mr. Chair, I don't know, staff or whoever, how long has the City had that land in the middle of that property and who did they obtain it from? I'm just curious.

MR. SOMMER: It's been well over 50 years.

COMMISSIONER MONTOYA: Fifty?

MR. SOMMER: Well over 50 years.

COMMISSIONER MONTOYA: And was it donated to the City?

MR. SOMMER: I think it was donated to the City as part of the funding that the federal government did for education. And so municipalities were given land as part of being able to provide for the education of their citizens. That was the tract that they got, I believe. And it's been in their hands for a very long time. It's landlocked by the way. They don't have access to it. The City does not have access to it and part of the discussions that we've had with the Nature Conservancy is that they will get access and that the City and the public will have access to public land, legal access. I'm sure that the people who live in that area can tell you that people are hiking on it all the time. There's a lot of wildlife back in there. There's bear, there's deer. There's many birds. It's a beautiful area and there's a spring that runs through it. The City has a very big interest in managing that well. So that's part of the donation agreement that we're working with the City on.

COMMISSIONER MONTOYA: Thank you.

CHAIRMAN SULLIVAN: A question I had, Mr. Sommer, which is one I had for one of the other applicants was under this HOP program you say seven units will be developed during phase one. Who's going to develop them?

MR. SOMMER: Mr. Brutsche or the development entity that Mr. Brutsche runs will develop them themselves. He will develop the lots and build the homes.

CHAIRMAN SULLIVAN: And he'll build the homes.

MR. SOMMER: That's correct.

CHAIRMAN SULLIVAN: So he will then meet the City's income requirements, or will they be sold or will that be turned over to Homewise or some other entity?

MR. SOMMER: We are working with the Santa Fe Community Housing Trust. There are two things that have to happen. We have to sign with the City before we can record any plat. A HOP agreement, so the agreement that Mr. Catanach was requesting as part of that other application you had, we'd have that with the City. We're also working with Mr. Ben Martinez at the Santa Fe Community Housing Trust to qualify our buyers under the City's program. So we're working with two entities. One is the City, the other is the Santa Fe Community Housing Trust.

CHAIRMAN SULLIVAN: Okay, so it's not a situation like at Los Frijoles

where they sold the lots for \$30,000. You're going to build and close on the homes, the completed home.

MR. SOMMER: That's correct.

CHAIRMAN SULLIVAN: Okay. Thank you. Other questions for the applicant. If not, this is a public hearing. Are there those present who would like to speak, either in favor of or in opposition to the project. Okay, why don't you just stand up and stretch and have the Clerk swear you in. We don't have any organized method here. If you want to just move to the front and we'll catch you as you come up to testify. Yes, sir.

[Duly sworn, Baylor Trapnell testified as follows:]

BAYLOR TRAPNELL: Chairman Sullivan and Commissioners, my name is Baylor Trapnell. I live at 2092 Paseo Primero, 87501. My lot backs up on the Grevey property on the development. The ridge line that defines the watershed or the non-watershed basically ends up in my backyard. I bought my lot in 1982 and I've lived there every since I built my house in '84 and '85. It's been wonderful living next to a huge piece of undeveloped land but it hasn't been without problems and concerns.

I have neighbors living in the woods. And that creates a fire concern because one cigarette but on a windy June afternoon 100 feet from the edge of the watershed could cause quite a bit of damage before anyone got to it. And while the watershed is patrolled and closed to public access, the land that's going to be developed is open to anyone who chooses to camp up there and many individuals have and do. I can show you a campsite that's a stone's throw from the watershed. Any day of the week individuals can be seen on Hyde Park Road, hitchhiking up and down and they move around in the woods, living there.

Another concern has arisen more recently with the bark beetle infestations. The elevation of this development is approximately 8,000 feet at its highest and we have outbreaks of bark beetles but they are not everywhere. I belong to both the Santa Fe Summit Homeowners Association and the Los Cerros Colorado Homeowners Association. Both those bodies have taken very aggressive positions fighting the bark beetle infestations. Owners are required to spray and they're required to remove infested trees to prevent further spreading.

A piece of property this size undeveloped is uncontrollable, both from human access and from insect access. I think we're fighting a pretty good holding action up at that elevation, but if that land is not developed and placed under the stewardship of individual owners and the oversight of a homeowners association, there's just nothing to control what's going on on there.

I've also known Mr. Brutsche since 1985 and watched as he's developed up and down Hyde Park Road and I can't think of anyone I would rather have develop this property who's done a better job in the neighborhood. He's done more things for the neighborhood and who would do I think a very fine development like his others on this piece of property. And so I urge you Commissioners to approve this development. Thank you.

CHAIRMAN SULLIVAN: Thank you, sir. Next speaker. And please limit your comments to three minutes.

[Previously sworn, Paige Pinnell testified as follows:]

PAIGE PINNELL: I didn't realize we had been limited to three minutes. My

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name is Paige Pinnell, P. O. Box 2892, Santa Fe, 87504. I'm here representing a group called Save our Sangres. We're concerned that this piece should not be developed at all. As you can see, it has the City piece in the middle of it. It's in the middle of all the trail systems. It abuts the watershed area. It's as priceless a piece as the MacLaine piece, as the Hughes piece, as the Parker piece to the public domain, which our group, by the way, helped to save those pieces.

We're very concerned about the rapidity that this particular project has been run through the process. There has been very little attempt and very little help at getting public input, in fact everything's almost been done to keep it at a minimum and within certain constraints. I only found out about this thing two months ago at a Canyon Association meeting. And many people just found out about it the other day. In fact the Governor of Tesuque Pueblo, who was here tonight for a while, just found out about it last week. He was sorry he could not be here but he asked that I express that to you, that he felt like the Pueblo had not had enough time to scrutinize this particular development on a number of levels and one of them is this particular area has two major archeological sites on it that have been discovered but nothing's been done about them and Tesuque definitely would like to see those sites, see if it's part of their cultural realm, and then talk more about what to do with it.

But if this project does continue, those sites will be destroyed. Where they're platted will be gone. Also Tesuque Pueblo's concerned about the Little Tesuque area. But we feel like there are other issues that are so large that at least more time needs to be given to scrutinize them. Water, fire, traffic concerns that haven't been met, the archeological sites which I have mentioned, the fact that the City needs to look into its ability to be able to furnish water to this project. And I think it's kind of a horse before the cart to okay this project and then later have the City find out that their pipeline cannot furnish the water that Mr. Sommer claims that they can.

The density is a problem. The fact that so many variances are going to be given for terrain management. And I pointed out at the Extraterritorial Zoning Authority that a lot of people don't know that the County's going to be involved in a suit that will be happening at the federal courthouse the end of next month concerning how much authority the County has over federal land that falls within its jurisdiction. And this has to do with the ski area and how much terrain they're going to damage in putting a new lift in. And it's a very interesting question. In fact, the ski area is going to dislodge less land that this project will. I find that very interesting.

I also feel like that a good case to be made, this project should fall within the Mountain Special Review District. If that was the case, it would be one house every 20 acres. Again, time – this thing has been propelled so swiftly that a lot of these issues have not been dealt with adequately. And I do feel like a lot of the opposition that was here at the Extraterritorial Zoning Authority, some of them even came in tonight, they saw when it was on the agenda. They looked around, saw the only person that was against the project is not here tonight with the Commission, and just decided to bag it. I think a lot of people feel like it's going to end up in litigation and what the heck? Why spend your night doing this when it's going to end up in litigation anyway. I personally feel like I'd like to spend my night asking you all to table this thing until a lot of these issues have really been honestly dealt with, public input has been heard

and a really good decision is made on what to do about this property. And that would give us time to find a land trust that would take this thing on and do a wonderful job with it. It should not be developed. Thank you very much.

CHAIRMAN SULLIVAN: Thank you, sir. Next speaker.

[Previously sworn, Ben Martínez testified as follows:]

BEN MARTINEZ: Ben Martínez, 649 Granada, with the Santa Fe Community Housing Trust. I'm the project manager. About last August I was amazed, almost fell on the floor when I was approached by Mr. Sommer offering us the HOP units. We did not solicit these. They were given to us through the Brutsche and Associates. Not only will there be these 14 units in previous developments I believe we're going to get six for a total of 20 units. These are the only affordable units on that side of town. Also, they will meet the eligibility requirements of income. These are working people.

Just to let you know, we have County employees, City employees, teachers, policemen and workers. Your brother, your sister, who are applying for these units. Unfortunately, with 20 units we already have a waiting list of 60 families looking. They will be built by the developer. They are not fancy things but they're beautiful. Then through the HOP, there will be an affordability standard maintained through it so there will not be profiteering. Because that family has to stay with it originally. There's a process to protect these from mass speculation. I myself have seen the units, have seen the area. I think they are managing it quite well and I do urge you to move forward on this because as you know we still have a crisis in housing and I feel that when it comes to solving this problem, remember, these are common problems so there must be shared solutions. Everybody takes a little bit and gets a little. Thank you.

CHAIRMAN SULLIVAN: Thank you. Who would like to go next?

Commissioner Anaya is watching on TV so don't worry. He hears you.

[Previously sworn, Janet Degan testified as follows:]

JANET DEGAN: Janet Degan, 2125 Pasco Primo. The Grevey property is not eligible for City water. Attached is the City resolution number 16, 1994, which includes the Grevey property from eligibility from City water. This was not submitted in the EZC or EZA hearings so it's very important that you review this agreement. This information has been withheld from you by Summit Properties' lawyer. Within the urban boundary areas eligible for City water is Hyde Park Estates I, II, and III, Ten Thousand Waves, Rancho Elisa, Summit North and Summit South. The Grevey property is not inside the urban boundary area and is not eligible for City water. The water issue alone is reason enough for turning down this development. There are other issues to reconsider.

The proposed development violates key elements of the neighborhood plan adopted by EZA Ordinance 1994-2 amendment, effective April 15, 1994 incorporating the Hyde Park Road Planning Group's neighborhood plan. Although Summit Properties is currently disregarding many key factors of the neighborhood plan they co-authored, agreed to, and signed the neighborhood plan on March 30, 1993 and are presenting that there are elements in the neighborhood plan that they aren't following.

There have been numerous misrepresentations by the development team claiming they

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have approval from the neighborhood. This was an informational meeting of a schematic plan, the one they referred to on August 16th, attended by a handful of neighbors and Karl Sommer claims there was a vote. There was no vote. The plan presented showed no contours. The road configuration was entirely different. It was a barely legible overlay on a very dark aerial photograph. In an agreement dated last year there was reference to the Grevey property and a stipulation requiring that Summit Properties must present development plans for review and approval by the Hyde Park Road Planning Group. This never occurred.

The neighborhood plan also requires a development and review process with the neighborhood plan which has not happened. 230 people who use this region or appreciate it have signed a petition for a development moratorium. It was zoned between the city and the national forest because of concerns of more development in a major fire zone in a drought with damaged forests losing potential value for open space, increased erosion potential on steep slopes, water issues, significant archeological sites, the denigration of the corridor protection zone. A very key element of the neighborhood plan which is totally ignored by this development.

We need to maintain the safety and integrity of the scenic byways. With densities and open space that may contain the rural mountain environment, trail and open space usage, adherence to the neighborhood plan and an open space acquisition plan. I had further details on how it doesn't fit the neighborhood plan but I don't think that I have the time to say them in this three minutes.

CHAIRMAN SULLIVAN: Thank you, Ms. Degan. Could you give a copy of this to the Clerk?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Ms. Degan, of those 230 people, how many

live in that area?

MS. DEGAN: Oh, on the petition?

COMMISSIONER MONTOYA: Yes.

MS. DEGAN: Oh, it's area wide. It's citywide, countywide. On the petitions

you'll see the addresses there, not from just the neighborhood.

COMMISSIONER MONTOYA: Okay.

CHAIRMAN SULLIVAN: Anything else, Commissioner?

COMMISSIONER MONTOYA: No. That's all.

CHAIRMAN SULLIVAN: Thank you, Ms. Degan. Next speaker please.

CHAIRMAN SULLIVAN: [Previously sworn, Robert Palmer testified as follows:]

ROBERT PALMER: My name is Robert Palmer. I live at 2068 Paseo Priero. It's near Aztec Springs. It's in this area here bordered by the national forest on the east, the Grevey property on the south and Hyde Park Estates on the west. We have our own water system. And I feel that I would prefer this subdivision did not happen. I'm concerned about density. I request that a decision on this issue be delayed to allow further study and public input which there's been very little over. The coverage in the press has been sort of misrepresented I

think to show it as a fight between two developers. Actually, the real issue has more to do with the highest possible use for this unusual piece of property in an unusual place.

This location and steep terrain suggests to me that preservation of open space or at least a considerable reduction in density would be beneficial, both to the City of Santa Fe and to our neighborhood's rural residential qualities. Representing the Aztec Springs Water Association, I also request that enough tax to the City water system be set aside to accommodate the potential needs of all existing residents in the area as a priority to accommodating any new proposed subdivisions. We've been there a long time and have a stake in our homes and it would be detrimental if we had no other choice, if our water system failed and could not be restored, we feel like we would like to know that there would be a potential to hook into the City system in some way at that time.

We don't want to do that now, but we may need to in the future. I don't want to just be told that I have to buy a truck with a tank on it because the City has no more room to let us in. I feel like the system was installed for the benefit of everybody who served on that Hyde Park Road and it should be taken into account those of us who've been there a long time. That's all. Thank you very much.

CHAIRMAN SULLIVAN: Thank you, sir.

[Previously sworn, Ray Olson testified as follows:]

RAY OLSON: My name is Ray Olson, 1448 Novato Ridge, Santa Fe Summit in Santa Fe. I'm under oath. I am also on the HPRPG. I'm a voting member. There seems to be an impression that the HPRPG rejects or doesn't approve this project. The HPRPG has to have unanimous decision in order to make that statement and they don't have mine. And I am a voting member. There were four voting members at that meeting on August 16th. Typically, what happens when a member, any member, decides that there's something alarming about a development, the voting members are called together and asked to do something about it. There was no call to arms. Nobody got concerned as a result of that meeting where that plan was presented and there were at least four of us there.

When I see a piece of property like the Grevey property and I know that it's up for sale, has been for a while, and I see a developer come along that is going to do a good job, an acceptable job, a prime job, then I feel pretty confident that he's the one that ought to develop that property. And Mr. Brutsche has proven in the past that when he takes on a project, he minimizes the impact on the local people and he is exceptionally beneficial to the society. His donations, his giving of land is exceptional in this area. I definitely think that you ought to approve his project. Thank you.

CHAIRMAN SULLIVAN: Thank you, Mr. Olson.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Olson, regarding the five members of the

HPRPG, approximately how many people do you represent?

MR. OLSON: I am a co-member of the Santa Fe Summit Homeowners Association. We only get one vote. One of us has to be there to vote. And there are actually, I

believe, six now because we were accepted into that group in May of 2002. And I know that there's a fellow named Tichman that's over on, I think Hyde Park III, and he was not at the meeting. So I would guess that there are about six. We have in the Summit 65 current members. So my representation would be for those 65 people. Now I'm not speaking here tonight as a representative of HPRG. Because we haven't taken any action to do that. I don't know how many people are in the other groups.

COMMISSIONER MONTOYA: Okay. Thank you.

CHAIRMAN SULLIVAN: Okay. Anyone else like to speak on this project?
[Previously sworn, Karen Merriwether Bailey testified as follows:]

KAREN MERRIWETHER BAILEY: Good evening. My name is Karen Merriwether Bailey and I am the open space chair and vice president of the Canyon Neighborhood Association. My address is 1677 Cerro Gordo Road in Santa Fe. I just wanted to speak on behalf of our experience as the Canyon Association. As was mentioned earlier this evening, our concern is the preservation of the integrity and beauty of the Santa Fe Canyon. And that's one of the focuses of our organization. We've had several different issues that we had to work on over the past few years. It's become almost a career, preserving the Santa Fe Canyon and we have been watching the Greavey tract for several years now, when we first saw that it was advertised for sale in the *New Mexican*. And when we learned that this project was begun, Mr. Brutsche, there were several people before this who were interested in developing the project and it did not evolve.

And when we learned that Mr. Brutsche was going to develop this we spoke with his representatives and they came and made a presentation to the Canyon Neighborhood Association, and people were appalled and shared their comments, what troubled them. Mainly it was the visibility of development on the ridge of the Santa Fe Canyon. And so after several meetings and negotiations, the canyon has been protected through just conversations and presentations that have been made. People's comments and working with Brutsche and Associates to preserve the Santa Fe Canyon.

What's happened is that they have moved the development off the ridge into the Hyde Park area. I can understand the concerns of the Hyde Park people but I also feel that this canyon, this property is for sale and it's going to be developed by someone sooner or later and even members of the Hyde Park Homeowners Association have recognized that. So for us, it's a way of preserving the Santa Fe Canyon and that's our concern. And I am sure that it's hard for the people in Hyde Park and I feel for them but I really can't get involved in their side of the discussion because we've been working on this for several years. What we have worked out in the land use agreement and in the covenants has turned out to be a very good thing, not only for the Canyon Neighborhood Association but for the community of Santa Fe because this canyon belongs to the community. And it's a resource, it's an asset, it's a treasure. Historically and today. And so for us, from our viewpoint, we feel that this project as it's worked out is in fact preserving the Santa Fe Canyon and we're very grateful for that. Thank you so much.

COMMISSIONER MONTOYA: Mr. Chair

CHAIRMAN SULLIVAN: Question from Commissioner Montoya.

COMMISSIONER MONTOYA: How many members are part of the Canyon Neighborhood Association?

[Previously sworn, Rich Ellenburg testified as follows:]

RICH ELLENBURG: My name is Rich Ellenburg. I reside at 1714 Canyon Road. We have about 125 members. Our mailing list of families is about 650.

COMMISSIONER MONTOYA: Okay. And Mr. Ellenburg, where do the majority of those members reside?

MR. ELLENBURG: Most reside off of Canyon Road or off of Canyon Road and off of Cerro Gordo. The neighborhood boundaries are all the streets that come off Cerro Gordo and all the streets that come off Canyon Road, plus a number of the area that goes over to Rio Rancho School and we pick up a little bit of the area just below us, around Cristo Rey Church where the neighborhood organization wasn't very strong and they've elected to join with us.

COMMISSIONER MONTOYA: Thank you. Thank you.

MS. MERRIWETHER BAILEY: So basically it's the entrance from the canyon from Cerro Gordo and Upper Canyon and everything else.

COMMISSIONER MONTOYA: Thank you.

CHAIRMAN SULLIVAN: All right. Next speaker.

[Previously sworn, Carolyn Schmyer testified as follows:]

CAROLYN SCHMYER: I'm Carolyn Schmyer. I live at 3200 Camino Lisa, Santa Fe, 87501. Living there on a cul-de-sac at the end of Camino Lisa, I'm the one that has the primo view that is to come when this development takes place if it does. And that is not a negative as far as I'm concerned. I have some really strong feelings about this whole thing. To begin with I have lived for six years now in Hyde Park Estates and loved it. I love the forest. I grew up in Tennessee in the trees and this is the closest I could get to getting my trees back again and I love that area and have tried to preserve it.

Ten years before that I lived across the road at Rancho Elisa and I worked hard at Rancho Elisa with the neighborhood planning group. I was one of the pioneers in that and you'll find my signature on one of those sheets signing off on the plan. I moved across the road and have been extremely happy there. None of us like to see changes, I think, especially where we have a lot of green around us. But I, as I get older perhaps, am becoming more of a realist and I'm not going to argue with the inevitable. That property is a beautiful piece. It is going to be built on whether it's now, whether it's later, it is going to be developed and if it is, I want Ralph Brutsche to be the one to do it.

Having been in that area for that length of time, when I was at Rancho Elisa, I watched High Summit go in. I always walked my dog up there. I walked those trails. I watched road by road as they were built. I went house by house as the houses went up. And what I say was that Mr. Brutsche really respected the environment. He did the impossible. I would never have believed it. He maintained open space and his work was with a lot of integrity and skill. He managed to do the impossible and actually enhance a lot of the natural attributes of the area. I've seen the same thing happen over in Summit South. I've walked Summit South. Same deal

putting in the road. I stood over there and I've looked over at my place. I have a good feeling. If anybody's going to develop there and I want it to be with someone that has the integrity and skill that is involved with this Summit development. So I totally support what's happening, even if it is in my backyard. Thank you.

CHAIRMAN SULLIVAN: Thank you. Anyone else who'd like to speak in favor of or in opposition to the project? Okay, I don't see anyone. That will close the public hearing. And we'll move this project back to the Commission for final discussion. Let me just say that the only thing that bothers me and the process I think that the applicant has gone through, I think is fine, whether it's expedited or whether it's not. But really the only concern I have is that some of these lots are down as little as .3 and .4 acres on this extremely steep slope and I know they're somewhat larger in Hyde Park Estates. I just have a concern we're going through preliminary, final plat and everything here and just looking at these plats without walking every centimeter of these proposed roads, I just have a concern that we're creating an appropriate density there with lots that small. That's my major concern with this. Any other comments from the Commission?

COMMISSIONER ANAYYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYYA: I just want to let the public know that we've been here since three o'clock and when I get up and walk into the other room, it's not that I was trying to ignore you.

CHAIRMAN SULLIVAN: He was watching it on TV. I saw him.

COMMISSIONER ANAYYA: I was watching it on TV. I was just trying to stretch my legs a little. I just want to let the public know that. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: I said you were watching it on TV. We have to take a break some time. Anyone else want to comment, questions?

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: I'd like to make a motion and hopefully I'll remember all the things I would like to incorporate in this motion. So I would like to make a motion that we approve EZ Case #S 03-4770 with staff's conditions, with City conditions, with EZC conditions and EZA conditions. I think that should cover it.

COMMISSIONER ANAYYA: Second.

COMMISSIONER MONTROYA: Mr. Chair.

CHAIRMAN SULLIVAN: Motion and a second. Discussion? Commissioner

Montoya.

COMMISSIONER MONTROYA: Is it the EZA that has the reflectivity part of their conditions?

COMMISSIONER DURAN: Any changes? Yes.

COMMISSIONER MONTROYA: Okay. And the applicant has already stated

they feel –

MR. SOMMER: Commissioner Montoya, yes. Correct. All of the conditions

that he talked about and I think he said reflectivity. We'll include that and I understand, I'm saying on the record that Commissioner Duran's motion includes that condition I talked about being with the reflectivity and rooftop stuff. So the record's clear. I know that's part of it.

COMMISSIONER MONTOYA: Okay.

MR. SOMMER: Is that what you were asking?

COMMISSIONER MONTOYA: Yes.

COMMISSIONER DURAN: The other thing is it does include your agreement with the Canyon Association.

MR. SOMMER: It does, as a specific condition.

COMMISSIONER DURAN: Right.

MR. SOMMER: All of the things that I put on the record earlier. If we could clarify one thing, as I said, this meeting has been noticed up and requested by us for the variances as we applied for. And staff has supported those variances, all of them, the ones in front of the EZA, in front of the EZC, and in front of you all, and they include the variances to 30 percent slopes and to the 50 percent rule. So if that was included in your motion we would appreciate it.

COMMISSIONER DURAN: It was.

CHAIRMAN SULLIVAN: Okay. Any more discussion? And again, I agree with those who have said in this development that probably it's going to occur regardless and we would like to see someone do it properly. I think it's too dense. That's my personal opinion.

The motion to approve EZ Case #S 03-4770 passed by majority 3-1 voice vote with Commissioner Sullivan casting the negative vote.

CHAIRMAN SULLIVAN: I think our Clerk has left, but I had forgotten during the work chase. I had a letter that I wanted to enter into the record that was submitted and wasn't mentioned and I just want to give that to the Clerk. Mr. Ross, would you give that to the Clerk.

MR. ROSS: Sure will, Mr. Chair.

CHAIRMAN SULLIVAN: Okay. Thank you. All right. I think it's now coming to the wicking hour. If we stay here six more minutes, gentleman another day will have passed and we'll get another day of per diem.

THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY

ORDINANCE NO. 2011-11

AN ORDINANCE SUSPENDING ON A CASE-BY-CASE BASIS PROVISIONS OF
ARTICLE V OF THE LAND DEVELOPMENT CODE CONCERNING EXPIRATION OF
MASTER PLANS, PRELIMINARY PLATS AND FINAL PLATS UPON A FINDING OF
ECONOMIC NECESSITY

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE
COUNTY OF SANTA FE:

Section 1. Suspension of Expiration. A new paragraph of Article V of the Santa Fe
County Land Development Code is enacted, as follows:

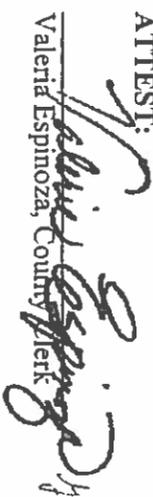
The Board of County Commissioners may approve, by resolution, temporary retroactive
suspension of enforcement of Article V, Sections 5.2.7, 5.3.6 and 5.4.6 of this Code
concerning expiration of master plans, preliminary plans and final plats for any development
located within the unincorporated lands of Santa Fe County and within the extraterritorial
planning and platting jurisdiction as described in NMSA 1978, Sections 3-20-5 (1965) and
3-21-2 (1965), upon a finding that severe economic conditions justify such a suspension
either for a particular project or for a described class of projects. Any such resolution shall
not suspend enforcement of Article V, Sections 5.2.7, 5.3.6 or 5.4.6 more than three (3)
years, nor apply to a master plan, preliminary plan and final plat expiring more than three
(3) years prior to the effective date of this ordinance, and such resolution may contain
conditions that the Board deems appropriate to such approval. For purposes of this section
"severe economic conditions" are present when the Conference Board Leading Economic
Index® for the United States is less than 100 for any quarter, and for three years following
any such event.

PASSED, APPROVED and ADOPTED THIS 13th DAY OF DECEMBER, 2011.

THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY

By: 
Virginia Vigil, Chair

ATTEST:


Valeria Espinoza, County Clerk



SFC CLERK RECORDED 12/15/2011



APPROVED AS TO FORM:



Stephen C. Ross, County Attorney

SFC CLERK RECORDED 12/16/2011

BCC ORDINANCE
PAGES: 2

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

I Hereby Certify That This Instrument Was Filed for
Record On The 16TH Day Of December, 2011 at 10:32:21 AM
And Was Duly Recorded as Instrument # 1654502
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Valerie Espinoza
Deputy County Clerk, Santa Fe, NM



Daniel Mayfield
Chairman of the Board of County Commissioners & Commissioner
for District 1.

The High Summit Owners Association Board of Director's voted unanimously on August 9th, 2014 to support the various Extensions being sought by the Grevey Lieberman Group, Case # MIS 14-5231, as described in the announcement of the public meeting to be held the 12th Day of August 2014 at 5:00PM at the County Commission Chambers of the Santa Fe County Courthouse.

Sincerely,

Fred Seibel – President, High Summit Home Owners Association





tabbies
6
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EXHIBIT



Daniel "Danny" Mayfield
Commissioner, District 1
Miguel M Chavez
Commissioner, District 2
Robert A. Anaya
Commissioner, District 3

Kathy Holian
Commissioner, District 4
Liz Stefanics
Commissioner, District 5
Katherine Miller
County Manager

MEMORANDUM

DATE: August 27, 2014

TO: Board of County Commissioners

FROM: Jose E. Larrañaga, Development Review Team Leader *JEL*

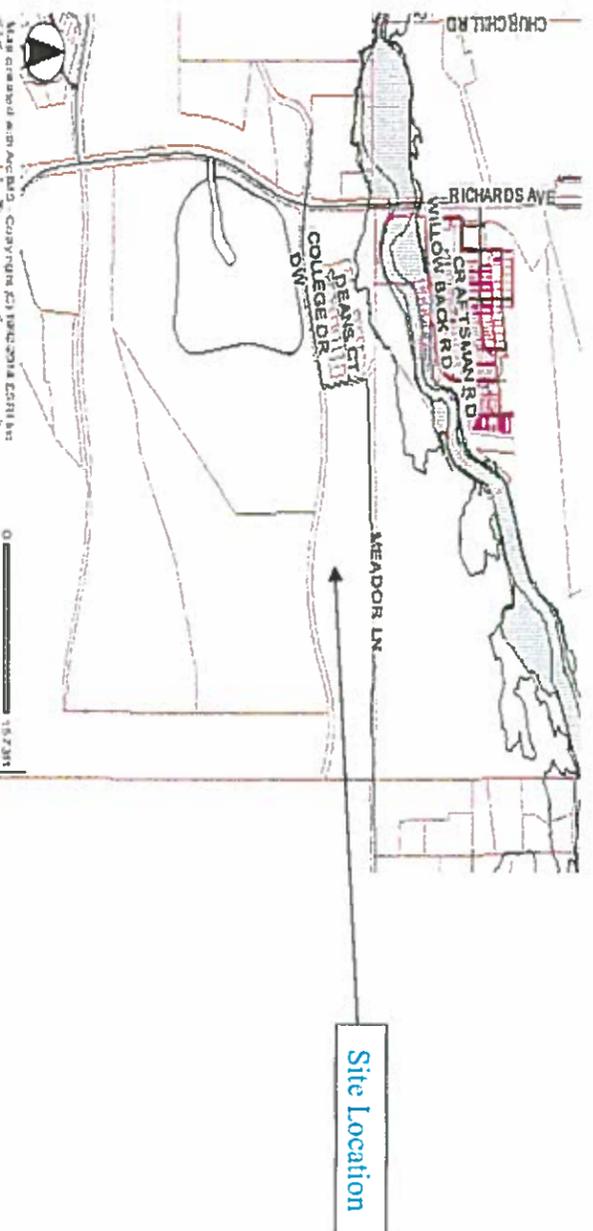
VIA: Katherine Miller, County Manager
Penny Ellis-Green, Growth Management Director *PEG*
Vicki Lucero, Building and Development Services Manager *VL*
Wayne Dalton, Building and Development Services Supervisor *WD*

FILE REF.: CDRC CASE # Z 13-5380 Elevation

ISSUE:

Vedura Residential Operating, LLC, Applicant, JenkinsGavin, Agents, request Master Plan approval in conformance with the Community College District Ordinance to allow a multi-family residential community consisting of 214 residential units on 22 ± acres. The site is located on the north side of College Drive and east of Burnt Water Road within the Community College District, within Section 21, Township 16 North, Range 9 East (Commission District 5).

Vicinity Map:



SUMMARY OF ADDITIONAL INFORMATION REQUESTED AND OBTAINED:

On July 8, 2014, the Board of County Commissioners (BCC) met on the above-referenced case. Staff presented a staff report (Exhibit 1), with exhibits, to the BCC, the Agents for the Applicant presented material and testified in support of the application, and the BCC heard testimony from the public. The BCC tabled this case until the September 9th Public Hearing.

The BCC identified three specific issues to be addressed and directed staff to obtain additional information on those issues. Those issues are identified below along with the response by staff:

1. Provide additional information from the New Mexico Environmental Department relative to sewer concerns that were raised (Exhibit 22):

Staff contacted the New Mexico Environment Department Surface Water Quality Bureau for comment on the Ranchland Utilities Inspection Report. The New Mexico Environment Department Surface Water Quality Bureau responded to this request with the following comments (Exhibit 28):

A compliance evaluation inspection was conducted on February 25, 2014. This facility is regulated under the United States Environmental Protection Agency (USEPA), National Pollutant Discharge Elimination System (NPDES) permit program. The New Mexico Environment Department (NMED), Surface Water Quality Bureau (SWQB) conducts compliance evaluation inspections on behalf of the USEPA. The purpose of this inspection is to provide the USEPA with information to evaluate their compliance with the NPDES permit.

The report had findings regarding recordkeeping, reporting, operation and maintenance and self-monitoring.

The finding for recordkeeping and reporting is regarding a requirement in the permit for Ranchland Utilities to keep EPA informed of their progress regarding a compliance schedule for biomonitoring. The permit has a requirement for submission of progress reports in January, April, July, and October. Ranchland Utilities did not submit their progress reports. This has since been corrected and reports will be submitted in October.

The findings for operation and maintenance are in relation to the number of operators on-site. Currently, Ranchland Utilities has one certified operator and they plan on hiring another certified operator. This finding has also been addressed by Ranchland Utilities.

There are other findings, such as the fine bubble diffusers inoperable, no inventory list, automatic dial alarm system inoperable; generator does not provide power to the entire facility. These findings have all been addressed as well. Ranchland Utilities has since corrected the fine bubble diffusers, the inventory list has now been established and the alarm system to the lift station is functioning. The

generator still only provides limited electrical supply; however, Ranchland Utilities may rent a generator in the event of a power failure.

Self-Monitoring findings are in relation to the requirements of Title 40 of the Code of Federal Regulations Part 136 (“40 CFR 136” – requirements for sampling and monitoring). Ranchland Utilities was using an outdated edition of the *Standard Methods for Monitoring Water and Wastewater*. They have since corrected this. Also, there was a finding for not doing duplicate sampling, which is required to be done on 10% of the samples. The operator, Mr. Quintana, has stated that the samples will be duplicated from this point on.

The findings from this inspection report were addressed sufficiently by Ranchland Utilities (Exhibit 25). Our inspections are typically done on a biennial schedule for minor facilities (facilities that discharge less than one million gallons per day), however, EPA has been known to do inspections more frequently in response to issues at the site.

The Santa Fe County Utilities staff reviewed the Ranchland Utility National Pollutant Discharge Elimination System (NPDES) inspection report dated March 6, 2014. Based on the information provided, the wastewater facility appears to have capacity to serve Elevation. The review finds that the report raises no issues that warrant the County taking a position that Ranchland Utility cannot provide adequate wastewater service to Elevation.

2. Provide information on the water availability for this project:

In order for the County to provide a sustainable and reliable water supply and water service, the County needs three things: adequate physical infrastructure (at both the source and delivery), water rights, and actual “wet” water. The letter written from Utilities to the Applicants Agent, Orallynn Guerrerortiz, on January 30, 2013, identifies general water delivery infrastructure requirements for the project. Utilities can find no documentation that addresses source infrastructure (the availability of BDD capacity) or water rights for the project.

Recent Utilities practices recognized adequacy of upstream infrastructure (BDD capacity) and water rights (Rio Grande surface water rights) and issued “ready, willing, and able” letters to development projects, providing that water right acquisition costs would be recovered from projects at time of meter installation. Some projects, however, which had previously dedicated water rights to the County and/or had been given a County water allocation via a Water Service Agreement, were provided service under different provisions.

Resolution 2006-57, *Resolution Adopting A Santa Fe County Water Resources Dept. Line Extension And Water Service Policy*, states that new water service applicants “may be required to deposit or dedicate water rights with the County to match against expected deliveries, pay the County to acquire water rights to match against deliveries that are

sought, pay a significant initial service fee, or pay other fees to the County to assist the County to provide a permanent and perpetual water supply.”

Because Rancho Viejo has contributed a combination of water rights and water allocations toward the phased development of the Rancho Viejo master plan and because Elevation is a development occurring within the Rancho Viejo Master Plan area, the applicant has not specified whether Elevation falls under Rancho Viejo’s dedicated water rights/ allocations or whether Elevation will need to pay a water right acquisition fee at the time of meter installation.

As a condition of Master Plan approval, Utilities requires that Elevation meet the following water service conditions:

- 1) Prior to submittal for Preliminary Development Plan Approval, Elevation is required to submit a proposed water budget that meets County code requirements and incorporates Santa Fe County conservation ordinances and resolutions. Upon approval, Utilities will add 20% to the development’s water budget for line losses per Resolution 2006-57 and submit the water budget to the BCC for a water allocation.
- 2) Prior to submittal for Preliminary Development Plan Approval, Elevation must have a BCC-approved water allocation in the amount needed for the development’s water budget.
- 3) Prior to Final Development Plan Approval, Elevation may provide the County Rio Grande surface water rights or Rancho Viejo water commitments. Otherwise, a water right acquisition fee will be added to the meter installation fee for each dwelling unit, which will be metered separately per Resolution 2012-88, Customer Service Policy 15.

Provide information from Public Works on the status of the design, survey, easements and construction timeline associated with the Southeast Connector:

The Southeast Connector is currently at the stage of an alignment study. This study evaluates the best alignment for the proposed road. Once the alignment study is complete, the appropriate right-of-way will need to be acquired by the County. The road will then need to be designed, and then finally constructed. Assuming that the right-of-way is acquired in a timely fashion, a rough overall schedule can be sketched out as follows: alignment study completed – February 2015; Right-of-Way acquired – November 2015; design completed – November 2016; construction completed – July 2017 (Exhibit 24).

RECOMMENDATIONS:

CDRC Recommendation: The County Development Review Committee recommended denial of the Applicants request for zoning approval to allow a multi-family residential community consisting of 214 residential units on 22 ± acres by a 5-1 voice vote.

Staff Recommendation: Conditional approval for a Master Plan in conformance with the Community College District Ordinance to allow a multi-family residential community consisting of 214 residential units on 22 ± acres subject to the following conditions:

1. The Applicant shall comply with all review agency comments and conditions, as per **Article V, § 7.1.3.c. Conditions shall be noted on the recorded Master Plan.**
2. Master Plan with appropriate signatures shall be recorded with the County Clerk, as per **Article V, § 5.2.5.**
3. A revised Traffic Impact Analysis, showing current road conditions, shall be submitted based on the timing and availability of the Southeast Connector at Preliminary Development Plan. **Article III, § 4.4.1.5.c**
4. Prior to submittal for Preliminary Development Plan Approval, Elevation shall submit a proposed water budget that meets County code requirements and incorporates Santa Fe County conservation ordinances and resolutions. Upon approval, Utilities will add 20% to the development's water budget for line losses per Resolution 2006-57 and submit the water budget to the BCC for a water allocation.
5. Prior to submittal for Preliminary Development Plan Approval, Elevation shall have a BCC-approved water allocation in the amount needed for the development's water budget.
6. Prior to Final Development Plan Approval, Elevation shall provide the County Rio Grande surface water rights or Rancho Viejo water commitments. Otherwise, a water right acquisition fee will be added to the meter installation fee for each dwelling unit, which will be metered separately per Resolution 2012-88, Customer Service Policy 15.

EXHIBITS:

1. July 8th, Report
2. Master Plan Report
3. Proposed Plans
4. Reviewing Agency Responses
5. Letter from County Utilities
6. Aerial Photo of Site
7. Letter from Ranch Land Utility Co.
8. Article V, § 5.2.6.b Expiration of Master Plan
9. Article V, § 5.3.6 Expiration of Preliminary Plat
10. Article V, § 5.2.1.b Master Plan Procedure
11. Article V, § 5.2.5 Filing Approved Master Plan
12. CCD Land Use Table
13. CCD Land Use Zoning Map
14. Article III, § 4.4.1.5.c Traffic Generation Report
15. Preferred Alignment of the Southeast Connector
16. Declaration of De-Annexation
17. Declaration of Covenants and Restrictions
18. April 17th CDRC Minutes
19. May 15th CDRC Minutes
20. Letters of Concern
21. July 8, 2014 BCC Minutes
22. Compliance Evaluation Inspection
23. Santa Fe County Utilities Memo
24. Public Works Memo
25. Ranchland Utility Progress Report
26. Resolution No. 2006-57
27. Article III, § 4.4.1.5
28. New Mexico Environment Department Surface Water Quality Bureau Memo



Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3

Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: June 24, 2014

TO: Board of County Commissioners

JEF

FROM: Jose E. Larrañaga, Development Review Team Leader

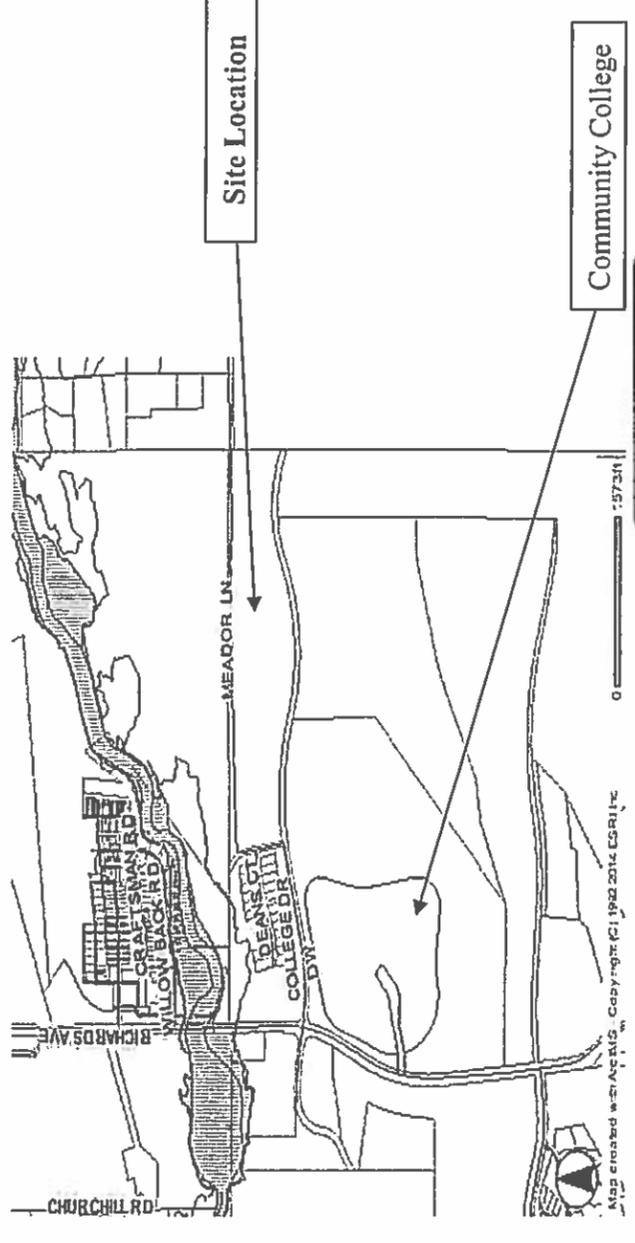
VIA: Katherine Miller, County Manager
Penny Ellis-Green, Land Use Administrator
Vicki Lucero, Building and Development Services Manager
Wayne Dalton, Building and Development Services Supervisor *WD*

FILE REF.: CDRC CASE # Z 13-5380 Elevation

ISSUE:

Vedura Residential Operating, LLC, Applicant, JenkinsGavin, Agents, request Master Plan approval in conformance with the Community College District Ordinance to allow a multi-family residential community consisting of 214 residential units on 22 ± acres. The site is located on the north side of College Drive and east of Burnt Water Road within the Community College District, within Section 21, Township 16 North, Range 9 East (Commission District 5).

Vicinity Map:



SUMMARY:

On May 15, 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.

This case was on the March 20, 2014, CDRC Agenda as a Master Plan Amendment to the College North Master Plan. This case was tabled from the Agenda at the request of the Applicant. During the review process staff determined that the College North Master Plan had expired. The College North Master Plan, which allowed for 73 single family lots on 90.75 acres, was approved by the Extraterritorial Zoning Authority (EZA) in 1997 and Phase I of the Master Plan was developed in 1999 as a 20 lot subdivision known as the College Heights Subdivision on 33.84 ± acres.

Article V, § 5.2.7 Expiration of Master Plan 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; progress in the planning or development of the project approved in the master plan consistent with the approved phasing schedule shall constitute an automatic renewal of the master plan approval. For the purpose of this Section, "progress" means the approval of preliminary or final development plans, or preliminary or final subdivision plats for any phase of the master planned project".

The Applicant is requesting Master Plan approval in conformance with the Community College District Ordinance (CCDO). The Community College District Ordinance was adopted on December 11, 2000. The CCDO Land Use Zoning Map designates this site as a Village Zone which allows for multifamily residential use. The Master Plan would allow a 214 unit multifamily residential apartment community on a 22 ± acre site, which is defined as an eligible use in the CCDO Land Use Table (Exhibit 10). Density allowed in this area is a minimum of 3.5 dwelling units per acre. The Applicant is proposing approximately 9.7 dwelling units per acre and is in conformance with the CCDO.

The Applicant has refined their plans to relocate the proposed site of the apartments in accordance with the alignment of the proposed Southeast connector. The exact alignment of the Southeast Connector has not been established therefore the actual building site of the apartments may change to coincide with the alignment once it is finalized by the County.

Article V, § 5.2.1.b states: "a Master Plan is comprehensive in establishing the scope of a project, yet is less detailed than a Development Plan. It provides a means for the County Development Review Committee and the Board to review projects and the sub-divider to obtain concept approval for proposed development without the necessity of expending large sums of money for the submittals required for a Preliminary and Final Plat approval".

This Application was submitted on December 6, 2013 and revised on March 26, 2014.

Building and Development Services staff have reviewed this project for compliance with pertinent Code requirements and have found that the facts presented support this request: the Application is comprehensive in establishing the scope of the project; the Master Plan conforms to the eligible use and density allowed under a New Community Center; the Application satisfies the submittal requirements set forth in the Land Development Code.

The review comments from State Agencies and County staff have established findings that this Application is in compliance with state requirements, County Ordinance No. 2000-12 Community College District and Article V, § 5, Master Plan Procedures of the Land Development Code.

APPROVAL SOUGHT:

Master Plan in conformance with the Community College District Ordinance to allow a multi-family residential community consisting of 214 residential units on 22 ± acres.

GROWTH MANAGEMENT

AREA:

Community College District, Community District.

ZONE:

Village Zone.

ARCHAEOLOGIC:

An archaeological site was documented on this site in 1995. This site is eligible for listing in the National Register of Historic Places and the State Register of Cultural Properties. A cultural resources re-survey has been submitted for review. The Historic Preservation Division (HPD) reviewed the archaeological site assessment prepared by Ron Winters and states "as long as the non-disturbance easement remains in place for LA 110168, the proposed subdivision will not impact significant or cultural sites".

ACCESS AND TRAFFIC:

The site will access directly off College Drive. A Traffic Impact Analysis was submitted and reviewed by the County Public Works Department. Public Works supports this project subject to the following conditions: the Southeast Connector will operate as a Minor Arterial Roadway, therefore, no direct access onto the Southeast Connector will be allowed; should the project Elevation be constructed prior to the Southeast Connector being constructed the Applicant shall be responsible for the construction of College Drive from the existing termini of Burnt Water Road; should the project Elevation be constructed prior to the Southeast Connector being constructed the Applicant shall conduct a Traffic Analysis, using the data provided for the slip lane on Richards Avenue, to determine the amount of apartment units which can be approved without causing an unacceptable level of service on the Richards/College Drive Roundabout; the Applicants shall submit a Traffic Impact

Analysis once traffic data for the location study, of the Southeast Connector, becomes publically available to determine if any off-site improvements are warranted; a traffic circle may be required at the intersection of College Drive and the Southeast Connector which would require a 105' radius from the intersections center line (the proposed plans depict a 100' set back from the structure to edge of R-O-W of the proposed Southeast Connector); a left turn deceleration lane shall be installed at the main driveway of the development (Exhibit 3, pg. NBD-38).

FIRE PROTECTION:

La Cienega Fire District: Santa Fe County will provide the water source for fire protection; fire hydrants will be located within the site; Cul-de-sacs shall be a minimum 50' radius.

WATER SUPPLY:

The project will be served by the County Water Utility. A 12" water line will be constructed to serve the development which will connect to a master meter that is connected to a 16" main line on Richards Avenue. A water utilities service availability analysis was issued to the Applicants by the Santa Fe County Utilities Department.

LIQUID WASTE:

The project will be served by the Ranchland Utility Company. The application was reviewed by NMED, Ground Water Quality Bureau who determined that the proposal will fit within the current conditions of Rancho Viejo's Ground Water Discharge Permit and no further permitting is required.

SOLID WASTE:

The apartments will have a series of dumpsters that will be screened and gated. Weekly collection of waste will be contracted with a local waste collection company.

**FLOODPLAIN &
TERRAIN MANAGEMENT:**

The site has 0-20% percent slopes with minor 15%-30% isolated occurrences. The property is not located within a designated FEMA 100 Year flood zone according to FIRM Community Panel No. 35049c0526E dated December 4, 2012, which shows that the property is located in Zone X.

The Applicant's proposal shows existing topography, natural drainage, and proposed locations for ponding. The Application meets Master Plan requirements of the Santa Fe County Land Development Code, Ordinance No. 2000-12 Community College District, and Ordinance 2008-10 Flood Damage Prevention and Stormwater Management Ordinance.

SIGNAGE AND LIGHTING:

The Applicants have submitted a conceptual signage plan showing two Monument Signs at the entrance of the development. As per Article VIII, Section 7.13, only one permanent identification sign shall be permitted and sign area shall not exceed 20 square feet in size. The Applicant shall comply with all signage requirements within Article VIII, (Sign Regulations) at time of Development Plan Submittal. The signage element of this Application does not comply with Article V, Section 5 (Master Plan Procedures).

The Applicants have submitted a conceptual lighting plan showing pole mounted lights at 25 feet in height. All pole mounted lighting shall not exceed 24 feet in height. All lighting within the CCD shall be shielded. The Applicant shall comply with all outdoor lighting requirements within Article VIII, Section 4.4.4.h at time of Development Plan submittal. The lighting element of this Application does not comply with Article V, Section 5 (Master Plan Procedures).

EXISTING DEVELOPMENT: The project site is currently vacant.

ADJACENT PROPERTY: The site is bordered to the west by the College Heights Subdivision. The Community College and vacant property owned by the Community College borders College Drive to the south. The site is bordered to the north and east by vacant residential parcels.

OPEN SPACE: The proposal meets the requirements set forth in the Land Development Code and Ordinance 2000-12 (Community College District), for Open Space and Trails, including minimum 50% open space and accommodation of planned district trails running E-W along College Drive and NW-SE along a utility easement on the eastern end of the property.

AGENCY REVIEW:

<u>Agency</u>	<u>Recommendation</u>
County Fire	Approval with Conditions
County Utilities	Approval
NMDOT	Approval
Open Space	Approval
Public Works	Approval with Conditions
OSE	No Opinion on Master Plans
SHPO	Approval
NMED	Approval
Public Schools	Approval

STAFF RECOMMENDATION:

Conditional approval for a Master Plan in conformance with the Community College District Ordinance to allow a multi-family residential community consisting of 214 residential units on 22 ± acres subject to the following conditions:

1. The Applicants shall comply with all review agency comments and conditions, as per Article V, § 7.1.3.c. **Conditions shall be noted on the recorded Master Plan.**
2. Master Plan with appropriate signatures shall be recorded with the County Clerk, as per Article V, § 5.2.5.
3. A revised Traffic Impact Analysis, showing current road conditions, shall be submitted based on the Southeast Connector at Preliminary Development Plan. **Article III, § 4.4.1.5.c**



jenkinsgavin
DESIGN & DEVELOPMENT INC

March 26, 2014

Jose Larrañaga, Commercial Development Case Manager
Santa Fe County Development Services
102 Grant Avenue
Santa Fe, NM 87501

**RE: Elevation Multi-Family Community
Master Plan Application**

Dear Jose:

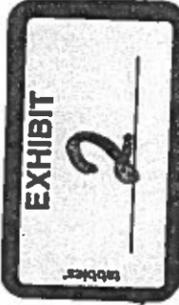
This letter is respectfully submitted on behalf of Vedura Residential Operating, LLC in application for Master Plan approval for a 214-unit multi-family community on ±22.0 acres. The subject property is part of a 56.91-acre parcel located north of College Drive and east of Burnt Water Road in a New Community Center Village Zone of the Community College District.

Background Summary

The subject property was part of "Future Phases 2 & 3" of the 1997 College North Master Plan in Rancho Viejo, which contemplated 73 single family lots on 90.75 acres. The subdivision plat for Phase 1 of the Master Plan, the 20-lot College Heights Subdivision, was approved in 1998. In accordance with Article V, Section 5.2.7 of the County Land Development Code, the Master Plan has expired since no additional plats were approved subsequent to Phase 1.

Master Plan

A 214-unit apartment community is proposed for the subject property. Originally, the Project was proposed adjacent to Burnt Water Road and the existing College Heights Subdivision. However, in response to neighbor concerns expressed at our first two community meetings, the Project was relocated significantly eastward to provide a large buffer and transition between College Heights and the proposed apartments. Furthermore, as reflected in the attached plans, the Project is now even further east and sited on the east side of the proposed right-of-way for the SE Connector roadway. Consequently, the apartments are now 0.26 miles east of the College Heights Subdivision. This siting revision was explained to the neighborhood at a follow-up community meeting on March 10, 2014. A subdivision plat will be prepared that dedicates the right-of-way for the SE Connector and creates the ±22.0-acre subject tract for the apartment development.



Access & Traffic

The Project will be accessed via two driveways connecting to a new extension of College Drive. In addition, a gated entrance is proposed from the new SE Connector. Per our discussions with the County Public Works Department, the portion of College Drive from its current terminus at Burnt Water to the future SE Connector will be constructed by the County as part of the SE Connector project. The section of College Drive from the SE Connector to the east end of the apartments will be constructed by the applicant as part of the Elevation project. A Traffic Impact Analysis (“TIA”) was prepared by CKS LLC and is submitted with this application. The conclusions are summarized below:

- The Project’s proposed access points on College Drive should be designed and constructed as un-signalized intersections. A left-turn deceleration lane will be required on College Drive at the central main driveway.
- The intersections of Richards Avenue/Dinosaur Trail and Richards Avenue/Avenida del Sur currently operate at acceptable levels of service during peak periods, and will continue to do so in the future. No further improvements to these two intersections are warranted.
- The intersections at Richards Avenue/Willowback Road and Richards Avenue/College Drive currently experience delay, or will in the future, during peak periods whether or not the Project is implemented.
- The roundabout at Richards Avenue/Willow Back Road currently operates at acceptable levels of service, but will experience delay in the future, whether or not the Project is implemented. If a second southbound through lane for Richards traffic were added, the intersection would operate at acceptable levels of service with or without the Project.
- The roundabout at Richards Avenue/College Drive currently experiences delay and will continue to do so in the future, whether or not the Project is implemented. If the existing single-lane roundabout were converted to two lanes, the intersection would operate at acceptable levels of service, with or without the Project.

The NE/SE Connector Location Study is currently underway to determine the future location of the Southeast Connector. The SE Connector is intended to provide relief to Richards Avenue, but as the study is not complete, the extent of the impact is not yet known. However, the construction of the SE Connector is likely to produce acceptable levels of service on Richards Avenue and therefore render the above referenced improvements unnecessary. Once the County’s traffic data becomes publicly available, we will review it to determine if any off-site improvements are warranted and will update the TIA accordingly.

In conjunction with development of the apartment community, Rancho Viejo is open to donating the requisite right-of-way for the SE Connector. This is a significant cost and time savings for the County that will greatly benefit the overall success of the NE/SE Connector project.

Water Supply Plan & Preliminary Water Budget

The Project will be served by the County Water Utility with the construction of a new 12” water

line in College Drive connecting to the existing 16" main in Richards Avenue. Please refer to the attached plans and the Water Utility Service Availability Analysis for further details.

The Preliminary Project Water Budget is 34.24 acre feet per year, as described below:

Use	AFY/Unit	Unit Count	Total AFY
Multi-Family	0.16	214	34.24

Liquid Waste Disposal

The Project will be served by Ranchland Utility Company. On-site wastewater collection will be accomplished via a series of 6" gravity and 2" force main service lines, flowing into a new 3" force main commencing at the northwest corner of the apartments and connecting to the existing 3" force main at the intersection of Burnt Water and Deans Court. Please refer to the attached Conceptual Sanitary Sewer Plan for further information.

Terrain Management

Storm water runoff from the Project will be collected in a series of small, shallow drainage swales integrated into the landscaped common areas, which maximizes passive irrigation. Please refer to the Conceptual Terrain Management Plan for further information.

Landscaping Concepts

As described above, storm water management at the apartment community will be integrated with the landscaping, which will include a combination of native, drought tolerant grasses, shrubs, evergreens, and deciduous trees. Seasonal flowering plants will also be incorporated. In addition to the passive water harvesting described above, storm water will be actively harvested in a series of below-ground cisterns connected to the irrigation system. A conceptual landscape plan is included to provide the intent of the design. A detailed landscape plan will be included in the pending Development Plan submittal.

Water harvesting will be provided in accordance with County Ordinance 2003-6. Conceptually, the cisterns would total 180,000 gallons (roofed area of 120,000 s.f. x 1.5), but shall be reduced upon submittal of the Final Development Plan application and the associated landscaping water budget.

Open Space & Trails

The Project will comply with the minimum 50% open space requirement of the CCD Ordinance.

An east-west pedestrian trail will be constructed along the north side of College Drive along the subject property's frontage. In addition, a twenty foot trail easement is proposed along the west side of the power line easement east of the subject property.

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Archaeology

An archaeological survey was performed as part of the Rancho Viejo master planning process and an archaeologically significant site is preserved in an easement at the east end of the 56.91-acre master tract. There are no archaeological sites identified on the 22.0-acre subject parcel.

Solid Waste

The apartments will have a series of dumpsters that will be screened and gated. Weekly collection will be contracted with a local waste collection company.

Lighting & Signage

As depicted in the attached Conceptual Lighting & Signage Plan, site lighting in the apartment community will be combination of 25-foot pole mounted lights along the driveways and in the parking areas, 9-foot post top lights along the pedestrian walkways, and building mounted sconces. All lights will be shielded and full cut-off in accordance with County requirements. Regarding signage, two monument signs are proposed on either side of the main entrance. Lighting and signage details are attached for your reference.

Environmental Performance Standards

The Project will comply with all County codes as they pertain to environmental performance standards. Furthermore, environmental protection is accomplished through (1) the preservation of open space and existing vegetation; (2) passive irrigation through drainage swales; (3) active water harvesting for irrigation purpose; (4) night sky protection; and (5) pedestrian trail improvements.

In support of this request, the following documentation is included herewith for your review and consideration:

- Development Permit Application
- Warranty Deed & Letters of Authorization
- College North Master Plan (1997)
- Water Utilities Service Availability Analysis
- Landscape Concept Plan
- School Impact Form
- Legal Lot of Record
- Proof of Property Taxes Paid
- Traffic Impact Analysis – 4 copies
- Master Plan Submittal Drawings – 13 full size & one reduced set

Finally, included herewith is a check in the amount of \$1,250.00 for the application fees, calculated as follows:

Application Fee	100.00
4 Notice Boards	100.00
Inspection	150.00
MP Amendment	250.00
TIA	500.00
Fire Review	100.00
<u>Fire Inspection</u>	<u>50.00</u>
Total	\$1,250.00

Please do not hesitate to contact us should you have any questions or need additional information.

Thank you for your consideration.

Sincerely,



Jennifer Jenkins
Colleen C. Gavin, AIA
JenkinsGavin Design & Development, Inc.