

**MINUTES OF THE**  
**SANTA FE COUNTY**  
**PLANNING COMMISSION**

**Santa Fe, New Mexico**

**January 18, 2024**

1. This meeting of the Santa Fe County Planning Commission called to order by J.J. Gonzales on the above-cited date at approximately 4:06 p.m.

A. & B. Roll call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

**Members Present:**

J. J. Gonzales, Chair  
Erik Aaboe, Vice Chair  
Wendy Pierard  
Jeremy Mier  
Dan Pava  
Rhea Serna [late arrival, via Webex]

**Member(s) Excused:**

Carl Trujillo

**Staff Present:**

Jose Larrañaga, Building & Development Services Supervisor  
John Lovato, Building & Development Services Supervisor  
Lisaida Archuleta, Deputy Land Use Director  
Jordan Yutzy, Building & Development Services Manager  
Jessica Gonzales, Case Manager  
Dominic Sisneros, Case Manager  
Roger Prucino, Assistant County Attorney  
Jaome Blay, Fire Marshal  
Daniel Fresquez, Media Manager

**C. Introduction of New Planning Commission Members**

Jose Larrañaga introduced Jeremy Mier representing District 2, and Dan Pava, the new at-large member. He noted Wendy Pierard was reappointed as the other at-large member. He congratulated them.

SFC CLERK RECORDED 02/23/2024

**D. Election of a Chair and Vice Chair**

Mr. Aaboe nominated J.J. Gonzales to serve as Chair. Member Pierard seconded. There were no other nominations and J.J. Gonzales was unanimously elected as Chair. [Member Serna was not present for this action.]

Chair Gonzales nominated Erik Aaboe for Vice Chair and Member Pierard seconded. Mr. Aaboe was unanimously elected Vice Chair. [Member Serna was not present for this action.]

**2. Approval of Agenda: November 16, 2023 & December 21, 2023**

**A. Amendments**

**B. Tabled or Withdrawn Items**

Mr. Larrañaga noted that Case #23-5200, the Todd and Susan Hardy Variance was tabled. Additionally, the minutes failed to upload on BoardDocs so approval of the two sets of minutes will be deferred until February.

Member Pierard moved to approve the agenda as amended. Member Aaboe seconded and the motion carried by unanimous [5-0] voice vote. [Member Serna was not present for this action.]

**3. Approval of Minutes: TABLED**

**4. Old Business - None was presented.**

**5. New Business**

- A. CASE # 23-5210; Kateryna VanHeisch Variance. Kateryna B. VanHeisch, Applicant, Eric P. Enfield, Agent, request a variance of Table 9-5-5, Dimensional Standards TCD, RES-C, to allow a residence to exceed 20 feet in height. The applicant is proposing a new single-family residence to be built at 26 feet in height. The property is within the Residential Community Zoning District within the Tesuque Village Overlay and located at 163 Tesuque Village Rd within, Section 25, Township 18 North, Range 9 East, (Commission District 1) SDA-2**  
*[Exhibit 1: Applicant's Information Packet]*

[Ms. Gonzales read the case caption.]

JESSICA GONZALES (Case Manager): Thank you, Mr. Chair. The applicant is proposing to construct a new 8,962 square foot residence on 1.58 acres. The current design of the proposed residence calls for the house to be constructed 26 feet in height. The site is zoned as Residential Community within the Tesuque Village Community District Overlay, Table 9-5-5, Dimensional Standards TCD, RES-C, illustrates that the maximum height of a dwelling within RES-C zoning is 20 feet.

SFC CLERK RECORDED 02/23/2024

The applicant states: “The new residence we are proposing is currently designed to be 26 feet high above finish grade. We are requesting a height variance to the current allowable 20 foot height restriction per Section 9-5-5, Dimensional Standards of the TCD RES-C of the Santa Fe County Sustainable Land Development Code.”

The applicant has addressed the variance criteria per Section 4.9.7.4 and staff has responded to the applicant’s comments.

Building and Development Services staff reviewed the variance application for compliance with pertinent SLDC requirements, and found that the facts presented do not support the request for a variance to allow the proposed residence to exceed the 20-foot height limitation. Specifically, staff found that: there are no terrain issues that would prevent the design from meeting the code requirements; the site lends itself to enlarging the footprint; the applicant can wait until the TCD Amendment is adopted which may allow 24 feet in height, thus possibly avoiding the need for a variance entirely.

Staff recommends denial of the requested variance of Table 9-5-5, Dimensional Standards TCD RES-C, to allow a residence to exceed the height limitation of 20 feet. The Applicant’s request for a variance does not meet the criteria set forth in the SLDC for granting a variance.

On December 14, 2023, this request was presented to the Sustainable Land Development Hearing Officer. The Hearing Officer memorialized findings of fact and conclusions of law in a Recommended Order on this request. The Hearing Officer, based on the evidence presented, recommended approval to allow a residence 26-feet in height.

If the Planning Commission finds that the variance request has met the variance criteria and approves the variance to allow the residence to exceed the height limitation of 20 feet, staff recommends the following condition be imposed:

1. The Applicant shall submit a Development Permit along with architectural drawings for staff’s review and approval.

Staff also suggests that the Planning Commission add a condition stating:

2. The height of the residence shall not exceed 26 feet from the existing grade to the top of the parapet.

MS. GONZALES: Mr. Chair, may I enter these conditions into the record?

CHAIR GONZALES: Yes, you may.

MS. GONZALES: This report and the exhibits listed below are hereby submitted as a part of the hearing record. Thank you. At this time I stand for any questions.

CHAIR GONZALES: Thank you, Jessica. Do we have any questions of staff? Erik.

MEMBER AABOE: Mr. Chair, we were handed an additional condition from staff, and I just thought it would be valuable to read that into the record if you didn’t already.

MS. GONZALES: Mr. Chair, Commissioner, I did read that.

MEMBER AABOE: Okay. Thank you.

CHAIR GONZALES: Any other questions? Wendy.

MEMBER AABOE: I’ve got another question. In the record, it indicated a number of times that there’s a transposition error or some other kind of error in the

Tesuque Community District height limitation. And I just want to clear up, that was never really definitively responded to. I just want to clear up the height conditions for the residential in Tesuque is at 20 feet? Or was there a transposition in error in that? Thank you.

MR. LARRAÑAGA: Mr. Chair, Commissioner, the residents of Tesuque claim that the height should have been at 24 feet. In their overlay district section for Tesuque was written it was 20 feet in the ordinance. So our Planning Department is going through amending that overlay district, and they're proposing a 24-foot height.

MEMBER AABOE: Thank you, Mr. Chair. Just to clarify, members of the community not involved in this particular case have brought this forward to staff's attention and that's why it's under review?

MR. LARRAÑAGA: Mr. Chair, Commissioner, yes.

MEMBER PIERARD: That was my issue.

CHAIR GONZALES: I've got a couple of questions, Jessica. They mention here that the variance said that there was an existing two-story house on the property at one time. And then when staff went out there the building was demolished and disappeared. So what happened there? Did you ever identify that there was a two-story structure there before?

MS. GONZALES: Mr. Chair, there was a structure there before and we have yet to find a demolition permit for that. It showed on an approved plat and it's no longer there.

CHAIR GONZALES: Okay. And I was going to ask a question for Jose. Like Erik mentioned, the 24 feet that they claim was there before 2016, and then this Tesuque Overlay came, I think, before the Planning Commission a couple years ago and it was recommended approval. And the Board of County Commissioners has had it for a couple of years. When is this going to be heard by the Board of County Commissioners and make an amendment to their community plan?

MR. LARRAÑAGA: Mr. Chair, the proposal for the amendments came forth to the Hearing Officer last week and it will be coming forward to the Planning Commission on February from the conversation I had with Nathan Crail who is the planner in charge of that amendment. And then ultimately it will go to the Board of County Commissioners for adoption.

CHAIR GONZALES: And when it went before the Hearing Officer last week, what was the sentiment of the public that spoke – in favor or against?

MR. LARRAÑAGA: In favor. Again, the Planning Department did extensive neighborhood meetings and talked to the community and they think they have everything in there. There was pretty much all support for the amendments proposed.

CHAIR GONZALES: Is that Margo Cutler and Lynn Piccard? They were the representatives for the Tesuque Overlay?

MR. LARRAÑAGA: Mr. Chair, that's correct. They were all in support and they were all in attendance in the neighborhood meetings.

CHAIR GONZALES: Okay. Thank you. Any other questions of staff. Dan, go ahead.

MEMBER PAVA: Thank you, Mr. Chair. One question for staff regarding the appearance of the proposed structure. Does it comply and appear – the appearance of that structure, does it comply with the aesthetic and architectural standards for the

Tesuque Village Overlay and Plan? It's a unique looking structure and has an awful lot of fenestration, a lot of windows. So I'm wondering if – and I didn't pick it up in the staff report. If staff could speak to that a little bit.

MS. GONZALES: Mr. Chair, Commissioner, when we did visit the site, it does look like it fits in the aesthetic of the neighbors.

MEMBER PAVA: Thank you.

CHAIR GONZALES: Any other questions? If not, is the applicant here? Please step forward, state your name and be sworn in.

[Eric Enfield, Jerry Barron, and Daniel Lujan were placed under oath.]

ERIC ENFIELD: Eric Enfield, 1483 Bishop's Lodge Road.

JERRY BARRON: Jerry Barron, 163 Tesuque Village Road.

DANIEL LUJAN: Daniel Lujan, 612 Old Santa Fe Trail.

[Duly sworn, Eric Enfield testified as follows:]

MR. ENFIELD: I just to clear one thing up for the record. I actually am not with Architectural Alliance anymore. I retired December 31<sup>st</sup>, but Jerry had wanted me to come do this, so I'm literally Eric Enfield as the applicant. Daniel is working on the plans and has worked with me through this project.

I just want to start out by saying I appreciate the help that we've gotten from the staff so far and I'm glad to be here in front of the Planning Commission. It's a long process just to get to this point as you well know. It's been a long process for our clients because I think this height issue came up in 2016. What we're requesting is the variance to the height requirement of 20 feet from the Table 9-5-5 of the Land Development Code to a proposed height of 26 feet above finished grade for the new single-family residence.

We had got the exhibits before the meeting and we see that you include in your packet, there's an Exhibit 6, which is a support letter, but there were some things in that weren't in that packet that didn't make it in and they were letters from Lynn Piccard, letters from Margo Cutler. They were the other case that we mentioned at the Planning Commission had previously approved the 26-foot height in Tesuque that isn't referenced in the County report either. And then the other thing they've included are the permits that were released to my client, and they didn't do development permits for the chapel and the wall. The stamped the permits that they got from CID with the County's stamp that's signed by the County officer at the time.

So I've got this packet I want to hand you because it appears that some of this isn't in your packet and I wanted you to be able to see these other letters of support, etc. while I'm talking.

The residence is 8,962 square feet of roofed area. The lot is 1.585 acres. And we have attached existing and proposed site plans that are in your packet. We also attached elevations and I want to clarify something they had mentioned. The house is 26 feet high – just portions of the house are 26 feet high. Forty-two percent of the house is 22', 22'6", or below that number. So almost an equal part of the house is lower than 26 feet. Jerry and Kateryna have been waiting a long time for the correction in the code and it's never come now in seven years and they've been waiting to build this residence.

With the code – I'll get to that part in a minute. The majority of the house is only also one story and there's only a small section that's two story. The spaces we're creating are monumental spaces inside the house, mainly having to do with the fact that we have recycled windows from previous residences we're going to be using. Those windows

themselves are 15 feet high. So we've got these monumental windows that we want to incorporate, and that kind of height of window requires them to be off the ground a certain amount; they can't be placed on the ground. The ceiling heights allow for a personal library and I think everyone might know the Raven, but she also has a lot of collections of incredible furniture and things that she wants to showcase in her house, and not for sale, but just for their own use.

The height variance right now could go to 22 feet without coming in front of you, because the County actually allows a deviance. If I walked in and said I want to build my house 22 feet in the Tesuque district they'd allow me to because they allow a ten percent deviation. So even this house, when it changes to 24 will be within that ten percent deviation that the County allows for the height of structures, because right now, you can build 22 feet high in Tesuque.

We are requesting this variance of four feet, and that's including the deviation. So really, what we're asking for is two feet, because we could – it's going to be changed to 20 and we can go up to 22. So four feet is what we're asking under the present code because it will allow you to go 22 feet. I didn't know that either. I didn't know that until I met with staff on this project and they say we actually allow without a variance up to 22 feet. But I think part of that is them realizing is that they had a miscommunication. Because if you read the letters, both from Lynn and Margo they're really clear about what happened and what the community wanted, and what ended up going into the code and it wasn't what the community had asked for, and it was – I don't know if you'd want to call it a mistake or they just put in 20 instead of 22 or 24, which is what they wanted.

We started this process on May 2<sup>nd</sup> and we met with John Lovato at the site for the pre-application TAC process. And then we presented the case to the TAC team on June 15<sup>th</sup>. All of their comments have been addressed with this package that we submitted to the County that we received from TAC. The County did make a request for me today in saying that if they look at my preliminary grading plan that's in there, it says it looks like you're using two feet of fill, so the house will be 28 feet high. And I said if we get a 26-foot high variance today we will meet the County requirement for how you measure that house.

But this is just a preliminary grading and drainage plan that we submitted to the County with the preliminary drawings. They haven't even been engineered. So we're planning on making sure that it complies with the 26 feet all the way around even though 42 percent of the house is 22', 22.5' high.

We also had a neighborhood meeting September 14<sup>th</sup> at the Tesuque Elementary School, and there was quite a few people there. It was probably about 20, 20-something people, and they were all positive in supporting us. There's not one letter I don't think in your packet. We checked this morning, that's negative to this request. And I don't think you have any letters against us but Jerry's going to speak about the people supporting us after I'm done talking, because he's actually been involved with the process for the whole time. So he's a very good source from the perspective of the Tesuque Valley what's going on.

And I just wanted to go through the questions that we answered on the variance so you kind of understand where we were coming from in our thoughts on these variance questions that were asked. Is the request contrary to public interest? Well, the proposed residents were placed in the existing two-story house -- it's probably a little bit taller than

that house was but we have no record of what the height of that house was so we can't claim it. We just know it was a two-story residence. The building site is 11 feet below Tesuque Village Road. So all that's technically going to be visible is 15 feet of the house, but then the perimeter was is eight feet high and it's not all the way – it goes beyond the road surface, so really you're talking about a house that may have visibility at seven feet, but I'm not sure you were able to go to the site but there are a lot of trees and we're not even sure that the house is going to be visible from the road once we've completed this house.

It's 146 feet from the road right-of-way so it's a huge setback also. And just so you know, we exceed the requirements for open space on this lot. The requirements, I believe, are 75 and 83 percent of this lot is remaining open space. So we're not putting this larger residence on a small lot. We're putting it on a larger lot in Tesuque. It's not like around El Nido and stuff with the very small lots. They've got a pretty big lot, and they actually own the adjacent lot also, which you may not be aware of, but they're separately deeded lots.

In between the new house and the road right-of-way there's this solid wall, and you probably have seen it. It's the river walk wall that runs along there. But I want to point out, they're not trying to hide from people. Their gates are iron. You can look right through the gates, walk up to the gates and look through the gates. It's not to try and not let people look inside their property because the gates allow people to do that at the two locations the gates are.

The real hardship lies in the miscommunication between the Tesuque community and the Santa Fe County that resulted in the 20-foot height restriction being codified. It has taken eight years at this point to have this one issue corrected and it's still not technically corrected, because it hasn't been voted on by you and the Commissioners. So there's still a process to it, and that's why we've come to you with a variance because we still don't know the end of that process. And though there's meetings in close sight to us my client wants to start the construction of his residence.

The County approved these changes to this overlay district in September of 22, which was going to increase the height to 24 feet, and with the ten percent deviation, that would allow the 26-foot high house without even coming to you guys after they redo the code and have rewritten it and engaged it.

The hardship, therefore, is having to abide by an erroneously applied rule while having to wait for it to be corrected, at which time this request for a variance would not even be required. As the spirit of the Land Development Code is observed and substantial justice is done the intent of the code is to prevent buildings from being built too high and to have minimum impact on the public view. The allowable height in the Land Development Code is 36 feet for agricultural buildings. So we could build a 36-foot high barn right along the road if we wanted to, and convert it to a barn for people? Well, we wouldn't do that. But I'm saying larger structures are allowed in the district. Some very large structures are allowed. That's why you see big secondary accessory structures, agricultural structures out there that are extremely high.

And because the proposed house is 11 feet below the road level it's cut way down and it's down into the hill that then goes off and goes down to the river and they don't own all the way to the river; there's another property in front of them that I happened to work on also previously.

The previous house – the County is correct the previous house on the property has been demolished. Staff had looked for the demolition permit and has been unable to find it and they said they had not located any permits, yet we have the stamped CID with the County’s stamp and the signature approvals from County officials for both the wall and the chapel, and they were calling the chapel unpermitted but it’s actually in your packet. It says storage shed and chapel. And then the other one says building wall. So my client’s been getting permits for all the construction on the property.

They had mentioned that we don’t have a development plan to present them because no development plan was required at the time to approve the wall, and the small accessory structure which is that little storage room that’s probably less than 100 square feet. The chapel, I’m not sure what the size is but it’s probably no more than 180 square feet or something. Two hundred square feet. And it’s a river rock chapel. It’s really beautiful on the site.

Further, they mentioned the height is six feet which is 30 percent higher than the maximum height. I think they’re using the 20-foot, not the 22-foot measurement. So that number actually, because they allow this deviation would be less than that.

I also want to talk a little bit about the second question. The staff response was the current height requirements were established in 2016, which is the 20-foot height. Since all the development within the TCD has had to comply with this requirements, that’s not exactly right because as we were looking through cases we found one that was presented in front of the County and the Planning Commission. It was exactly the same case we’re presenting right now, and it was Case #18-5170, and I’ve included the meeting notes in the packet that I presented to you all for your review, to see they reviewed pretty much the same thing – same height, everything, and it was approved by a previous Commission.

If you add the fact that we’re 11 feet down and there’s an eight foot wall on the property you can see how little visibility there will be for this house. I’m not saying the answers from the County are wrong. I’m saying that I could also look at them differently in answering these questions on what would be a hardship and what’s a hardship to my client. He feels like he’s dealt with a hardship because he’s been waiting seven years for the code to be changed,

I’d like Jerry to talk a little bit about this also, and I just wanted to repeat what the Hearing Officer recommendation was because we worked with City staff. We responded to all the TAC comments, and then we had to go in front of the Hearing Officer which I’d never done before but it was fine. We presented to her and she said on December 1;5, 2023 this request was presented to the Sustainable Land Development Hearing Officer. The Hearing Officer memorialized findings of fact and conclusions of law in a recommended order on this request. The Hearing Officer, based on the evidence presented, recommended approval to allow a residence 26-feet in height. And it sounds like within six months to a year it’s probably going to be legal to build 26 feet high in Tesuque, so all we’re trying to do is get our clients’ house started. But I’m going to let Jerry talk now about his experience. Thank you.

[Previously sworn, Jerry Barron testified as follows:]

MR. BARRON: Thank you all for your time today. I’m going to cut my remarks short because I think Eric covered pretty much everything that I wanted to cover. My name is Jerry Barron. My wife is here too, my wife Kateryna. We’re the owners



seeking the variance and I'm also one of the directors of the Tesuque Valley Community Association, which is the County-recognized community organization for Tesuque Village. I also participate in the planning committee for the new County overlay that's about to be, hopefully approved within the next few months.

I became a member of the TVCA in part to figure out why the 2016 overlay changed the Tesuque height limit to 20 feet. The following is what I've found. The TVCA participated in the planning committee for the 2016 overlay. And as the two letters that we have from other members of the TVCA attest, which we've provided to you, it was understood that the new SLDC would follow the plan decided on by the community. When it did not, the TVCA assumed this was a mistake or a typo as there was no other explanation.

When this was pointed out, the TVCA was told that to address the presumed mistake, among others, we needed to request a new planning process, which we have done and we're in the midst of completing now. Because this process has taken such a long time and there's no guarantee of it being adopted soon, our only other remedy for this oversight is to seek this variance.

My primary point here is that in 2016 the County Planning Committee intended and agreed to and approved a 26-foot residential height limitation. It was 26 feet. All parties involved understood it to be 26 feet and we based our design on this idea. But instead a 20-foot limit was codified. I also wanted to mention again here that there is at least one precedent where the Planning Committee approved a similar variance for this reason in Tesuque in 2019. Thank you so much.

CHAIR GONZALES: Thank you. Do you have another speaker?

MR. BARRON: He supports the project.

CHAIR GONZALES: Does the Commission have any questions of the applicant? Erik.

MEMBER AABOE: Thank you, Mr. Chair. Mr. Barron or Mr. Enfield, I'm not sure who was at the community meeting. There was something in the minutes of that meeting. One neighbor came in late, said she didn't like big houses, she didn't like use of water, left early. And I'm just wondering, so were the plans presented to the community? This is a relatively large house, at least where I come from. So the plans were – it wasn't just –

MR. ENFIELD: All the plans – and at the end of the meeting she said she supported it. She didn't like big houses.

MEMBER AABOE: Right. So I just noted that. She didn't like big houses but she supported this project. I just noted that inconsistency because to me this is a big house, which is not relevant here. Another question on the 26 feet. My understanding is residential structures are limited to 24 feet in most of the county without an overlay. Is that correct? And I'm sorry to ask staff while you're up, but is that correct?

MR. LARRAÑAGA: Mr. Chair, Commissioner, that's correct.

MEMBER AABOE: So, the overlay process allows for a greater height restriction than in the rest of the county, because people are saying it should be 26, but my understanding is the standard is 24 countywide. Does the community overlay process allow for a greater height standard?

MR. LARRAÑAGA: Mr. Chair, Commissioner, the amended overlay district that's coming in before you next month is limiting the house to 24 feet in the Tesuque overlay.

MEMBER AABOE: Understood. I just want to get that clear because there's been a 24, but we get the two-foot variance, then we're at 26. So there's just a cumulative thing that doesn't really happen. I just want to be clear on that. That's all I have. Thanks very much.

CHAIR GONZALES: Wendy.

MEMBER PIERARD: Yes, I just have a question. I drive this all the time and it is – the land is sloping down toward the Rio Tesuque so it is difficult to see down there. I was wondering if there was a comment from the adjacent property owner behind this property.

MR. ENFIELD: No.

MR. BARRON: No comments at all.

MEMBER PIERARD: They had no comment?

MR. BARRON: No.

MEMBER PIERARD: Okay. Thank you.

MR. ENFIELD: Probably the one that's most affected is the large house that's along the river. We worked on that house. That's over 22 feet high. Just for your records and that went through the County too.

CHAIR GONZALES: Jeremy, Dan, do you have any questions?

MEMBER PAVA: Thank you, Mr. Chair. I'm fascinated by the windows of the proposed structure. It seems like some kind of adaptive reuse. Is that part of the reason for the height of the structure?

MR. ENFIELD: Exactly. Because the architectural effects that they going to be using those old windows. They're beautiful old windows with the arched top and fan pattern on the windows, and it's going to be stunning. It's going to be – it's different but she – the woman in the meeting that you talked to, she's all like, I'm okay with it though. She came in and was kind of flustered at first but she was fine with it after we talked to her and walked her through it.

MEMBER PAVA: Thank you. I think having all available light is a good thing down there in Tesuque.

MR. ENFIELD: Especially on the river side.

MEMBER AABOE: Mr. Chair, Commissioner Pava has reminded me of something else. Does the County still require a home energy rating system score of 65 or whatever it was? Seventy? I'm just – I'm not sure where in the process this is but that's a whole lot of glass.

DOMINIC SISNEROS (Building & Development Team Leader): Yes. During the development permit application process staff does require an ERI of 61 or below, which is Energy Rating Index, which is a requirement from the state.

MEMBER AABOE: Thank you very much. So I guess the code has changed since I know it. And so that will be a State Construction Industries Division limitation on the construction methodology of the house. Is that correct?

MR. SISNEROS: That is correct.

MEMBER AABOE: Thank you very much.

MR. ENFIELD: I would like to point out that we're proposing an authentic double adobe on all the walls. So all the walls are double adobe. We're probably going to offset the insulation value on the windows with the insulation values in the walls.

CHAIR GONZALES: I had a couple of questions for Eric.

MR. ENFIELD: Yes, sir.

CHAIR GONZALES: You mentioned the case before us today is a six-foot variance and you made it sound like it's already 24 feet and the deviation, you mentioned a two-foot deviation, but that is on a case-by-case basis. It's not automatic. That's what I understood from reading the material in the code.

MR. ENFIELD: But I've understood that anyone today could come in under the 20-foot and get 22 feet removed through staff, without having any variance process.

CHAIR GONZALES: If they approve it. Yes.

MR. ENFIELD: Well, I don't think they've ever said no.

CHAIR GONZALES: It's not automatic though, but that's okay. I don't want to argue with you.

MR. ENFIELD: Yeah, yeah, yeah. I understand. But I was just saying the 22, and then 24, 26.

JOHN LOVATO (Building & Development Manager) Mr. Chair, for clarification, there has to be some sort of hardship to that effect before staff would approve it. What would constitute a hardship on this would be justified by whatever the applicants present and we would look at that and determine whether there is a need for a deviation. It's not automatically granted. Something that would qualify would be that there's a flood zone and you needed to add a foot of fill to raise it one foot above the base flood elevation, therefore allowing that one foot deviation or two feet, whatever it may be. So it's not automatically give. It is a request that is approved by the Administrator.

CHAIR GONZALES: Yes, thank you for the explanation. Yes. The other questions I had for Eric, you mentioned the windows are 15 feet high. Those windows are going to be placed in what part of the house? Where the 26-foot request is?

MR. ENFIELD: Yes.

CHAIR GONZALES: Is that where it's going to be?

MR. ENFIELD: Yes.

CHAIR GONZALES: Is there any way to make those a little less high and lower or something? What's the deal with that? They can't be made to meet like 24 feet.

MR. ENFIELD: I think I also mentioned to you that there were areas where there were two stories within that 24-foot box, and so we do have areas of two stories but the majority of the house is just one story, and where the monumental windows are where we wanted the height of the ceiling. Maybe Gerry can speak more specifically to it. I work and provide to my clients what information they give to me so that design is a result of the input from the client.

CHAIR GONZALES: Okay. Thank you. Do we have any more questions of the applicant? Wendy.

MEMBER PIERARD: I have one more question. I'm just curious about the chapel on the property. Is that something for personal use? Or –

MR. BARRON: Yes. It's entirely personal. It's not – it only looks like a chapel. We've only used it for storage and other purposes. It's really decorative. It was intended originally as a tool shed.

MEMBER PIERARD: All right. Thank you.

CHAIR GONZALES: Thank you.

MR. ENFIELD: Thank you very much.

CHAIR GONZALES: This is a public hearing. Is there anybody in the public wishing to speak for or against this case, or anybody online, Jose? Please step forward.

MR. LARRAÑAGA: Mr. Chair, I see no one on line wishing to speak.

CHAIR GONZALES: If there's nobody to speak at the public hearing I will close the public hearing and ask the Commission for any discussion. Yes, Wendy.

MEMBER PIERARD: Are you ready for a motion?

CHAIR GONZALES: Now we have a motion if we're ready.

MEMBER PIERARD: Okay. I motion for Case #23-5210, that we approve the variance to 26-foot in height, and include the condition that the applicant submit a development permit along with architectural drawings for staff review and approval, and also that the height of the residence shall not exceed 26 feet from existing grade to the top of the parapet.

CHAIR GONZALES: Thank you. Do we have a second?

MEMBER AABOE: I'll second the motion.

CHAIR GONZALES: We have a motion and a second. Do we have any discussion?

MEMBER AABOE: Mr. Chair, I'm sorry.

CHAIR GONZALES: Yes, go ahead.

MEMBER AABOE: I just want to verify. If I remember correctly the applicant mentioned that he brought in some fill. The condition says not to exceed 26 feet from the existing grade. To me existing grade means what's there before you touch it. So I just want to make sure that that condition is clear, just verify with staff, that existing grade means the pre-existing grade before any fill was brought in or taken out.

MR. LOVATO: Mr. Chair, Commission Member Aaboe, that is correct. So the height's taken from any elevation directly below that point, whether there's fill, if fill's included, that's added to the component of the height. So it must be at that natural grade or they might have to catch the daylight from that.

MEMBER AABOE: Thanks so much.

CHAIR GONZALES: Thank you. We have a motion and a second.

**The motion passed by unanimous [6-0] voice vote.** [Member Serna had joined the meeting by this point.]

- 5. B. CASE 23-5200 Todd and Susan Handy Variance. TABLED
- 5. C. CASE # 23-5230 CC Luv Buds, LLC Conditional Use Permit (CUP). CC Luv Buds, LLC (Linda Cassel), Applicant, Santa Fe Permits (Jennifer Salimbene), Agent, request approval of a Conditional Use Permit (CUP) to allow a cannabis producer microbusiness that will

**cultivate cannabis plants outdoors. Section 10.22.3.4 of the Sustainable Land Development Code (Ordinance 2016-9, as amended by Ordinance 2021-03; hereafter “SLDC”) states that a cannabis producer or cannabis producer microbusiness that cultivates cannabis plants outdoors shall be a conditional use in all Rural Fringe, Rural Residential, Residential Fringe, and Traditional Community Zoning Districts. The 2.513-acre site is within the San Marcos Community District Overlay (SMCD) and is zoned Rural Residential (RUR-R). The site is located at 66 Arroyo Coyote Rd, SDA-2, within Section 35, Township 15 North, Range 8 East (Commission District 5) [Exhibit 2: Informational Packet Provided by Applicant; Exhibit 3: Site plan provided by applicant]**

[Mr. Sisneros read the case caption.]

MEMBER MIER: Mr. Chair, I'd like to recuse myself from this case. I know the applicant and have spoken in detail about the project, so I want to recuse myself. Thank you.

CHAIR GONZALES: We have enough members to vote.

MR. SISNEROS: Thank you, Mr. Chair. The applicant requests approval of a Conditional Use Permit to allow a cannabis producer microbusiness to cultivate cannabis plants outdoors. The 2.51-acre site is zoned Rural Residential within the San Marcos Community District Overlay. Ordinance 2021-03, states that a cannabis producer or cannabis producer microbusiness that cultivates cannabis plants outdoors is a conditional use within a Rural Residential zoning district.

The applicant has obtained a New Mexico Cannabis Producer Microbusiness license, which would allow for a cannabis producer at a single licensed premises to possess no more than two hundred total mature cannabis plants at any one time.

The proposed grow site will have an area of 18 feet by 18 feet, which is 324 square feet with 50 plants and is located on the west side of the property, south of the existing residence. Access to the site is provided via a 25-foot access and utility easement that runs across the northern property line of the 2.51-acre property. Arroyo Coyote Road is dirt/gravel and privately maintained. The proximity to NM 14 is approximately .63 miles. The drying of the cannabis will occur in the basement of the existing residence. The applicant currently has a contract from the Entranosa Water Association to haul in water to use in the cultivation of the plants. The applicant will use a local hauler to transport water and is expected to use approximately 21,000 gallons of water per year at full maturity.

The applicant has addressed the CUP criteria and staff has responded to the applicant's comments. The applicant addressed and staff reviewed the following applicable design standards: access, fire protection, fences and walls, lighting, signs, parking and loading, road design standards, water supply and water conservation, terrain management, solid waste, and air quality and noise.

Building and Development Services staff has reviewed this project for compliance with pertinent SLDC requirements and Ordinance No. 2021-03, and has found that the

SFC CLERK RECORDED 02/23/2024

facts presented support the request for a Conditional Use Permit to allow a 324 square foot area for the purpose of producing cannabis: the use is compatible with the current development within the affected zoning districts; the use will not impact adjacent land uses; and the application satisfies the submittal requirements set forth in the SLDC inclusive of the Conditional Use Criteria set forth in Chapter 4, Section 4.9.6.5. The review comments from the State Historic Preservation Office and County staff have established findings that this application to allow a 324 square foot area to cultivate cannabis plants outdoors is in compliance with State requirements, Ordinance No. 2021-03, and pertinent design standards set forth in the SLDC.

On December 14, 2023, this request was presented to the Sustainable Land Development Hearing Officer. The Hearing Officer memorialized findings of fact and conclusions of law in a Recommended Order on this request. The Hearing Officer, based on the evidence presented, recommended approval of the request to allow an area of 18 feet by 18 feet with 50 plants and to utilize the basement of the existing residence for the purpose of drying cannabis after harvest with the conditions recommended by staff.

On the December 14, 2023, Hearing Officer's Hearing, one individual testified via Webex in opposition regarding the request for an outdoor production of cannabis at this proposed site. The concerns expressed from the opposition were specifically health and safety of the community and road congestion. Mr. Romero's testimony was interrupted due to connectivity issues. It was recommended that Mr. Romero submit a written statement to staff. No written statement had been received. The testimony of this individual are stated in the minutes recorded on December 14, 2023, with the Santa Fe County Clerk's Office.

The recommendation of the Hearing Officer and staff is for approval of a Conditional Use Permit to allow a 324 square foot area for the purpose of producing cannabis outdoors and to utilize the basement of the existing residence for the purpose of drying cannabis after harvest, subject to the following conditions. Mr. Chair, may I enter these conditions into the record?

CHAIR GONZALES: Yes, you may.

[The conditions are as follows:]

1. The CUP showing the site layout and any other conditions that may be imposed through the approval process shall be recorded at the expense of the Applicant in the office of the County Clerk in accordance with Chapter 4, Section 4.9.6.8.
2. The use of the on-site well is prohibited for the production of cannabis.
3. A water meter shall be installed on the existing domestic well and meter readings shall be provided to the County on a monthly basis to ensure that water from the well is not being used for the grow facility.
4. The approval of the CUP allows for a 324 sq. ft. area to be utilized to cultivate cannabis plants outdoors and a basement of the existing residence for the purpose of drying cannabis after harvest, as illustrated on the drawing that was submitted to staff.
5. The Applicant shall obtain a Santa Fe County Business License.

MR. SISNEROS: This Report and the Exhibits listed below are hereby submitted as part of the hearing record. Thank you, and at this time I stand for any questions.

CHAIR GONZALES: Thank you. Do we have any questions of staff? If not, I think I do. I have a lot of questions anyway. I'm just worried about the odor in the basement. You said the basement of the house is going to be used as a drying facility. Have you seen that? Have they given you dimensions of what that basement looks like? Is it ventilated or anything? Or do I have to ask the applicant for that.

MR. SISNEROS: We would need to ask the applicant. As of right now we have not received a floor plan of the basement or don't know of any of the ventilation or any openings in that basement right now.

CHAIR GONZALES: And another question I have is, have you reviewed the security fencing, the security lighting, motion sensors? What size cistern they're going to use? Have they presented that in their application?

MR. SISNEROS: In the exhibits they have provided the lighting details and they are proposing – I believe it is a six-foot tall fence, which I think everything is meeting requirements of the state. I don't believe any motion sensors are planned.

CHAIR GONZALES: And I noticed that Public Works did not review this for the road because it was a private road. How many residents are on that road that you know of?

MR. SISNEROS: I am unaware of that number right now. I would have to ask the applicant.

CHAIR GONZALES: Okay. Thank you. Any more questions of staff?  
Erik.

MEMBER AABOE: Mr. Chair, I'm just wondering what kind of – for these permits, if granted, what kind of reporting to the County is required on an ongoing basis? I don't know if Jose or –

MR. SISNEROS: So for a cannabis microbusiness they would still have to apply for a business license, and then the CUP would still be required to be recorded as a CUP. Other than that, all regulations are inspected by and go forward through the state.

MEMBER AABOE: Got it. So there's no cannabis specific reporting requirements that are needed by the County. It's just a business license you get and you pay your bill.

MR. SISNEROS: That is correct.

MEMBER AABOE: Got it. Thank you.

CHAIR GONZALES: Thank you.

MEMBER PIERARD: I have one question.

CHAIR GONZALES: Wendy, go ahead.

MEMBER PIERARD: It's interesting, because we've seen quite a few of these come up in the last six months or so and they all seem to be off of 14. Is the County putting together any graphics on where these facilities are located? Because it seems like they are very close in proximity to each other.

MR. SISNEROS: I'm not aware of any plan going forward to identify where these locations are.

MEMBER PIERARD: Thank you.

CHAIR GONZALES: Thank you. Is the applicant here? Thank you,  
Dominic.

MR. SISNEROS: Yes, sir. Yes, the applicant is here.

CHAIR GONZALES: Please step forward and be sworn in.

[Duly sworn, Jennifer Salimbene testified as follows:]  
JENNIFER SALIMBENE: Jennifer Salimbene, P.O. Box 29424, Santa Fe,

87507

[Duly sworn, Linda Cassel, testified as follows:]  
LINDA CASSEL: Linda Cassel, 66 Arroyo Coyote Road, Santa Fe,

87508.

MS. SALIMBENE: I do have a presentation that is going to be put up. I also have paper copies as well I can hand out in the meantime. Before I get into it I'd like to address some of the questions that were raised. The neighbors, it went out to ten neighbors, so about ten people live on that road. Also in the presentation you'll see that there is, within a certain amount of range there aren't a lot of other micro-growers in the area. So it's not staggering in that area. It's not clustered.

So as the presentation states, this is legal in the state and CC Luv Buds, the owner, Linda, she has already obtained her New Mexico cannabis producer license, and that allows for a single licensed premises to possess more than 200 plants. She's only asking to do 50, so it's very small. As far as the location, it is on 2.5 acres and it is located at 66 Arroyo Coyote, via New Mexico 14. It is allowed within this zoning district. It is an outdoor grow and it's going to be located on the west side of the property, so it's not visible from any direction. It is also not within 500 feet of a sensitive use area like a school, a daycare facility or a religious institution. There is also not within 200 feet another cannabis retailer consumption area.

As Dominic stated the grow site will be approximately 324 square feet with only 50 plants. So as you can see, this is not a large-scale development. Growing will be seasonal and is no different than having a flower or vegetable garden. Water – she has a contract, Linda has a contract with Entranosa Water Association for water use in the cultivation of the plant. Expected use is approximately 15,000 gallons to the full maturity. So it's not going to be that much. It's just going to be when – that's going to be the most.

In the meantime, she has had a state-approved water meter installed to ensure that the water from her well will not be used for the grow.

Roads, there will not be additional traffic. The grow area will be maintained by one person – Linda – who lives onsite. And as far as security, I know that's kind of a concern for some. She will implement security systems required by the state. So that would be the privacy fencing that will complement the landscape. We put motion lighting but that's not going to happen. It's not required by the state but there will be sort of surveillance cameras.

Up here is a picture of the site and what's existing and the proposed grow area. And if there are any questions Linda and I are happy to answer those.

CHAIR GONZALES: Thank you. Do you have any comments, Linda?

MS. CASSEL: I just wanted to make it clear that the growing area is just, it's like a garden. It's about this big. And it's not visible from any of the roads behind me or in front of me. You can't see anything.

And as far as downstairs in the basement, the basement is very large. It's a room that I'll be hanging the plants. We can put ventilation in, but there are windows down there. It's not a closed basement. As far as – I don't report to the County about the marijuana, about the cannabis, but the state is very strict. Every seed has to be

SFC CLERK RECORDED 02/23/2024



catalogued. Everything, every plant has to have a – it's very detailed, the reports that have to go into the state.

CHAIR GONZALES: Thank you. Do we have any questions of the applicant from members of the Commission? Dan, go ahead.

MEMBER PAVA: Thank you, Mr. Chair. So the intent here is up to 50 mature plants, whereas the state would allow up to 200. Why not any more?

MS. CASSEL: Because I'm doing this myself and I can't handle – I work also, full time at the Community College. I can't handle more than 50 plants. That would be insane.

MEMBER PAVA: Thank you.

CHAIR GONZALES: Thank you. Erik.

MEMBER AABOE: Mr. Chair, so on previous similar cases, water has been an issue, and I think it's great that you came forward to say that you have a contract with a carrier. And when I look at the site plan that you handed out that was on screen, I just thought so, you have a well and an underground tank and that's going to serve your residence, but there will be no use of that water to water the plants.

MS. CASSEL: No, and I have a state-approved meter on the well.

MEMBER AABOE: To report.

MS. CASSEL: To report. And the water delivery will be once a month, and probably for five months. I figure from May to October.

MEMBER AABOE: Depends on the weather.

MS. CASSEL: Yes, it depends on the weather.

MEMBER AABOE: Got it. So the water for this will be delivered from the carrier to those above ground tanks. They're shown on the site plan?

MS. CASSEL: Yes. That's correct.

MEMBER AABOE: Yes, I just might want to recommend that you consider moving those slightly closer to the house and maybe catch some runoff to feed those tanks, because why buy it when it falls out of the sky? So I don't know that that would be within our jurisdiction to mandate, but it just might be a way for you to save some money and get some of the runoff off the roof.

MS. CASSEL: Thank you for the suggestion.

CHAIR GONZALES: Excellent idea, Erik. Water harvesting is in vogue in 2024.

MS. CASSEL: Yes.

CHAIR GONZALES: Any other questions? If not, I've got some questions. The questions I had, you allowed, your license says up to 200 plants. Okay, you want 50 plants. That's what Mr. Pava said. Where do you start these seedlings? Do you have a little greenhouse or something where you can start them?

MS. CASSEL: I don't have a greenhouse. I would start them under lights, the seeds. Downstairs in the basement.

CHAIR GONZALES: So you have a garage or something, or part of your house where you start them or in the basement. Where would you start them?

MS. CASSEL: In the basement. I would hang lights.

CHAIR GONZALES: Okay. So that's where you start them. And then when you plant them outdoors, where do you plant them? It's a very small area. Eighteen by eighteen is like 324 square feet or something. That's very small.

MS. CASSEL: It's very small. So I'll be using cloth/canvas pots, 20-gallon pots, and that way I can also move them around. I can also recycle them. I'm sorry; I didn't mean to interrupt you, but that way I'm not using plastic pots and I can reuse them.

CHAIR GONZALES: Okay, the other question I had was the roads to your house. Is that a private road? Who else uses that road?

MS. CASSEL: The other residents. I believe – I'm not sure if everyone, but most of us pay to keep up the road.

CHAIR GONZALES: You have an annual maintenance on that road?

MS. CASSEL: That's correct.

CHAIR GONZALES: And you have neighbors. How many neighbors that defer the expense?

MS. SALIMBENE: The notification was for ten but I don't know if it's verbal or –

MS. CASSEL: It's a verbal agreement. It's just – because a lot of people don't pay. I pay. But it's just verbal, if you want to.

CHAIR GONZALES: Like how many people use that road?

MS. CASSEL: That I don't know. We sent letters out to ten people.

MS. SALIMBENE: I believe about six were actually on her road. Some were not on her road. They were within a buffer but they were not actually on that road. So I have full confidence saying about six people use that road.

CHAIR GONZALES: Okay. Well, thank you very much. This is a public hearing. Any members of the public wishing to speak, for or against, please come forward. State your name for the record.

[Duly sworn, Janice Hite testified as follows:]

JANICE HITE: My name is Janice Hite and I live at 25 Arroyo Coyote Road, which is down the road from where she lives. I'm not necessarily opposed to this, but I am a neighbor to her, although I've never met Ms. Cassel, but in the circle of my neighbors I was the only one who was able to be here today, and we were mostly concerned about the water. But she seems to have addressed that, so I'm less concerned, as long as we're not using the aquifer up.

The hauling the water, it does a little bit concern me because we do have to pay for our road. There's way more than six people on the road in that neighborhood. I can't give you an exact number but I'm number 24; she's number 66. It goes way further back, and then we have several other roads that kind of go off of it. And it is, as far as that goes, it's an LLC neighborhood meeting thing, so we have to pay. It's just sort of, we have to be good neighbors and pay, and not everybody does. I'm glad to hear that she does. I do as well. But our road is just sort of basically not super maintained, because it's just mostly the good will of the neighbors taking care of it.

We were also concerned because we did have a major criminal element in our neighborhood in the past three or four years that we've been really struggling with. In fact we've been here meeting about it with the County Commissioners. We think that it's possibly solved at this point but it's been a long haul and so it does concern us that we're not inviting another criminal element into the neighborhood. And I certainly am not suggesting that she's a criminal element, it's just that these kind of things sort of invite

issues some times, that can be unexpected issues. And for her sake I hope everything is safe for her as well.

But that was my main concern. We were concerned about water, because our aquifer – and another thing, because I just maintain a little, small yard and my perennial garden and I use way more water than I should, just keeping that little bit alive. And I've noticed that in the time that I've been living out there for the last five years that our little neighborhood seems to be in some kind of – we don't really get a lot of moisture there. Like when the monsoons hit, we don't necessarily get any of it. So water is a big concern on our aquifer, and people are very worried about. Just to put that in there.

CHAIR GONZALES: Thank you very much. Anyone one else wishing to speak for or against this case? If not, I will close the public hearing. Dominic.

MR. SISNEROS: Mr. Chair, Commissioners, I just want to reiterate, on the conditions of approval, it is listed on here the use of an onsite well is prohibited for the production of cannabis, and also one of the other conditions was a water meter shall be installed on the existing domestic well and meter readings shall be provided which Ms. Cassel already stated that she had already obtained the meter.

CHAIR GONZALES: Thank you.

MR. LARRAÑAGA: Mr. Chair, if I may. One comment and one suggestion. So staff didn't know that they were going to start the plants indoors. So per Ordinance No. 2021-03, any indoor production or growing of cannabis is considered a commercial greenhouse. In the San Marcos overlay, this zoning district, a commercial greenhouse is not allowed. So I have mentioned it to the applicant. I think they're going to speak to that.

The other thing is since the applicant's suggestion is the applicant is requesting 50 plants so somewhere, maybe condition #4, insert that the applicant only gets 50 plants. If she decides to go up to 100, let's say, she'd have to come back through the conditional use process again.

CHAIR GONZALES: So I understand what you just mentioned, that she cannot use lights to start the seedlings?

MR. LARRAÑAGA: She cannot grow indoors.

CHAIR GONZALES: She cannot grow indoors.

MR. LARRAÑAGA: Correct. So the applicant will address that also.

CHAIR GONZALES: Okay. Did the applicant understand that?

MS. CASSEL: I will buy seedlings, plants that are already started.

CHAIR GONZALES: Okay. So you'll have to talk to Mr. Larrañaga and clarify that. Greenhouses or indoor growing is not allowed.

MS. CASSEL: Right. And that's fine.

CHAIR GONZALES: So we'll have to figure something out.

MS. CASSEL: I hadn't done it before.

CHAIR GONZALES: You came here to ask us for 50 plants and if you have more than 50 plants then it's got to be another –

MS. CASSEL: Fifty plants and I will buy 50 seedlings.

CHAIR GONZALES: Amend it to your application.

MS. CASSEL: Yes. Thank you so much for your time.

CHAIR GONZALES: Thank you. Do we have any discussion on this matter? I closed the public hearing so we have discussion. Erik, Wendy, Dan? What are the wishes of the Commission?

MEMBER AABOE: I'll move to approve with all of the identified staff conditions.

MEMBER PAVA: I would second that.

CHAIR GONZALES: Okay, we have a motion and a second.

**The motion passed by unanimous [5-0] voice vote. [Member Mier recused himself.]**

**6. Petitions from the Floor - None were offered.**

**7. Communications from the Commission Members**

Chair Gonzales commended staff for their preparation of the reports. Member Aaboe welcomed the new Commissioners and looks forward to working with them.

**8. Communications from the Attorney**

Mr. Prucino also welcomed the new members.

**9. Matters from Land Use Staff**

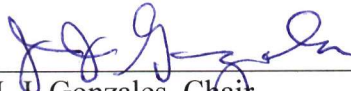
Mr. Larrañaga introduced the new Building & Development Services Manager, Jordan Yutzy.

**10. Next Planning Commission Meeting: February 15, 2024**

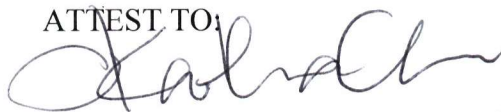
**11. Adjournment**

Chair Gonzales declared this meeting adjourned at approximately 5:20 p.m.

Approved by:

  
J. J. Gonzales, Chair  
Planning Commission

ATTEST TO:



KATHARINE CLARK  
SANTA FE COUNTY CLERK

Respectfully submitted by:

  
Debbie Doyle, Wordswork



PLANNING COMMISSION MI  
PAGES: 36

COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss

I Hereby Certify That This Instrument Was Filed for Record On The 23RD Day Of February, 2024 at 08:42:52 AM And Was Duly Recorded as Instrument # 2028757 Of The Records Of Santa Fe County

SFC CLERK RECORDED 02/23/2024

Witness My Hand And Seal Of Santa Fe County  
Deputy  County Clerk, Santa Fe, NM  
Katharine E. Clark

From packet  
Neighbor Letter  
For Approval

Jessica Gonzales

**From:** JV Williams <pinchebuya@yahoo.com>  
**Sent:** Sunday, November 26, 2023 12:35 PM  
**To:** Jessica Gonzales  
**Subject:** 163 Tesuque Village Rd, Section25, Township 18 North, Range 9 East



*WARNING:*

*EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.*

*I'm writing regarding the height variance request submitted by Katerina B. Vanhelsch. I live at 164 Tesuque Village Rd, across from the applicant. I attended the meeting, conducted by Eric Enfield, about the height variance request. As I understand it the foundation of the proposed house will start at 11 feet below grade. The house will not be visible from my property, and will be slightly visible at street level. The proposed house will not block anyone's view.*

*I ask that the height variance be granted in keeping within the spirit of the diversity of the community of Tesuque; and considering the fact that the code had, originally, called for the height of buildings to not exceed 24', but which was transposed incorrectly as 22 feet, the applicant request is for a mere 2 feet.*

*Thank you,*

*Joyce V. Williams*

SFC CLERK RECORDED 02/23/2024





Lynn Pickard

History of Height Restrictions in Tesuque

To: Jerry barron, Cc: Jose Larranaga

inbox - Cybermesa October 31, 2023 5:59 PM

[Details](#)

Dear Jerry,

I am providing you this message with copy to Jose Larranaga to explain the history of the height restrictions in Tesuque, particularly the area in which you live. I am the co-chair of the Tesuque Valley Community Association and have been such since 2010, when the TVCA started and before any current planning process was underway. I was not on the original planning committee, although I went to a few meetings, but I was actively involved in getting the 2013 Tesuque Community Plan passed. That plan called for a height restriction of 26 feet in what was then called the Tesuque Valley District (page 34) and now is called the Residential Community District (page 49 of 2022 Plan).

When SLDC was adopted in 2016, for some reason, that 26 foot limitation was changed to 20. When Tesuque residents realized that, we thought it was a mistake, and that someone has misread the 26 as 20. During regular meetings that members of the TVCA had with the county staff during 2018 and 2019, we pointed out that there were several areas where the SLDC did not follow the Community Plan and that the height restriction was one of them. We were told that the matter needed to be resolved by a new planning process, which we requested in March of 2019. Indeed, the 2022 Tesuque Community Plan expressly states that one of the areas of inconsistency between the 2013 Plan and the SLDC was in building height standards. (Page 8, item e1)

In the meantime, in case number 18-5170, a landowner requested a variance of the 20 foot restriction, and the TVCA wrote a letter to the land use administrator supporting the request for the variance on the grounds, among others, that the 20 foot restriction appeared to be a mistake and that a new planning process was contemplated that would correct that mistake. To my knowledge, that landowner was granted the requested variance.

The planning process that culminated in the 2022 Tesuque Community Plan was begun in 2019, but due to an issue that the TVCA was not concerned about as well as the intervention of the pandemic, the plan took until 2022 to draft and get approved. The 2022 Plan does not contain any definitive height restrictions because such definitive standards are not appropriate for plans, and instead are to be contained in the codes that flow from the plans. During that planning process, the Planning Committee agreed that no height restriction should be contained in the Plan and came to a consensus that the SDLC should be amended to better approximate what was intended by the Tesuque community in the 2013 Plan. However, we decided that 24 feet would be more appropriate because it would better conform to the general height restriction in the SLDC. In addition, there is the minor variation provision that would allow a 10% administrative increase, so that the original intent of 26 feet could be allowed in appropriate circumstances.

I hope that this message will be sufficient to explain that the 20 foot limitation was never the intent of the Tesuque community and that we have been consistent in trying to get it changed to better conform to our original intent. I would be happy to discuss this further in case anyone has any questions.

Sincerely,  
Lynn Pickard, co-chair  
Tesuque Valley Community Association

SFC CLERK RECORDED 02/23/2024

**TVCA** Tesuque Valley Community Association

**1532 Bishops Lodge Road, Santa Fe, NM 87506**

September 27, 2023

To: Penny Ellis-Green, Director, Growth Management Department

From: Margo Cutler, Tesuque Community Organization Contact Person

Re: 163 Tesuque Village Road, Santa Fe, NM 87506

I am writing on behalf of the TVCA, a county-approved community organization, to state that we have no objection to the landowners' application for a height limitation of 26' for their proposed house on the above property. The TVCA has a Land Use Committee to which the membership of the TVCA has delegated the task of attending Neighborhood Meetings and stating the TVCA position on proposed land use matters.

Two members of our committee attended the Neighborhood Meeting and reviewed the architect's notes on it. Those two members conducted an email meeting with the other members of the Land Use Committee explaining that they proposed that the TVCA have no objection to the landowners' proposal and why. The members were reminded of the TVCA protocol on development requests as follows: "You may remember that guidelines that we adopted in the past suggest that the committee would oppose variances that are contrary to the code and are requested just because the landowners want them or feel entitled to them; we would support variances that are supported by the legal standard and are consistent with the TVCA's priorities, such as fire mitigation or water conservation; and that we would not state a position when the variance is arguably supported." All members either agreed or did not respond, which was deemed an agreement, to the proposal to not state a position.

The reasons that we have no objection (or are not stating a position) are briefly that the 20' height limitation in the SLDC seemed to be a mistake, the mistake will likely be corrected to 24' in an upcoming change to the Code, the minor deviation section of the SLDC (4.9.7.6.1) would then seem to allow County staff to administratively approve the request, the neighbors are supportive, and the landowners have taken measures to block the view of the house from the road.

Please feel free to contact me if you have any questions.

SFC CLERK RECORDED 02/23/2024

**TVCA**

**Tesuque Valley Community Association**

**PO Box 312 Tesuque, NM 87574**

January 23, 2019

To: Penny Ellis-Green, Director, Growth Management Department

From: Lynn Pickard, co-chair, TVCA

Re: Case # 18-5170, Height Variance Request, 54 Big Tesuque Canyon

I am writing on behalf of the TVCA, a county-approved community organization, in support of the Alsop request for a variance on the height requirement found in the SLDC. Mr. Alsop would like a variance so that he can build the permitted second story of his house to a height of 24 feet.

The first reason this variance should be granted is that the SLDC did not for some reason include 26 feet as the permitted height for structures in the Tesuque Community Overlay District. The Tesuque Community Plan, adopted in 2013, called for a 26 foot height limit. (Page 34) My understanding is that the Code is supposed to follow the Plan. As such, the TVCA is working with Robert Griego and other county planning department officials to amend the SLDC to reflect the proper height limitation. The TVCA is working with the County to make additional amendments to the SLDC as well to conform to the wishes of the community. Hence, providing a variance to Mr. Alsop would represent a convenience to him so he does not need to wait to move forward with building his new home.

Second, the proposed height limitations in Tesuque, as reflected in The Tesuque Community Plan, are intended to preserve the rural and agricultural nature of the community. They are designed to avoid the obtrusiveness of houses and other buildings. The Alsop proposed building is located on the valley floor and behind many trees. It is also the last house on a dead-end road, so it is not visible from county or state roads. For these reasons, the building at 24 feet will hardly be visible to anyone.

Third, my understanding is that the neighbors are fully supportive of the request for variance. On a personal level, I am one of the neighbors, and I run on the trail that goes by the Alsop property nearly every day. I have reviewed the architect's submissions and am convinced that the proposed house will not adversely impact anyone using the Winsor Trail.

Thank you for your consideration. In both my official and personal capacities, I hope that you act favorably on this request.

SFC CLERK RECORDED 02/23/2024



54 Big Tesuque Canyon  
Case # 18-5170  
Approved Aug. 2019  
To Allow 26'

MINUTES OF THE  
SANTA FE COUNTY  
PLANNING COMMISSION

Santa Fe, New Mexico

August 15, 2019

I. This meeting of the Santa Fe County Planning Commission called to order by Chair Charlie Gonzales on the above-cited date at approximately 4:00 p.m. at the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

II. & III. Roll call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

Members Present:

Charlie Gonzales, Chair  
Frank Katz, Vice Chair  
J. J. Gonzales  
Susan Martin  
Fred Raznick  
Steve Shepherd

Member(s) Excused:

Leroy Lopez

Staff Present:

Vicki Lucero, Building & Services Manager  
John Lovato, Development Review Specialist  
Cristella Valdez, Assistant County Attorney

IV. Approval of Agenda

Vicki Lucero noted that there were no changes to the agenda. Member Katz moved approval and Member Martin seconded. The motion carried by unanimous [6-0] voice vote.

SFC CLERK RECORDED 09/20/2015

SFC CLERK RECORDED 02/23/2024

V. **Approval of Minutes:**

- A. **Approval of May 16, 2019 Regular Meeting Minutes**
- B. **Approval of July 18, 2019 Regular Meeting Minutes**

CHAIR GONZALES: Let's start with the May 16, 2019. I have one question on that. On page 4, for some reason, my name came out as Madam Chair again. So I would just like to strike all the Madam Chairs. Anybody else for May?

MEMBER KATZ: Yes. On page 13 of the minutes on the second one, the July one, at the bottom of the page my second to last comment on the second line, No way that you can allow, not no way that an allow. Dropped a C there. That's the only change I have.

CHAIR GONZALES: Okay. Anybody else on the minutes for May and July? Any changes? Any discussion?

MEMBER KATZ: Move to approve the amended minutes as amended.

CHAIR GONZALES: Do I have a second?

MEMBER RAZNICK: Second.

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

VI. **Consent Calendar: Final Orders**

- A. **Case # 18-5170 Stewart Alsop Variance.** Stewart Alsop, Applicant, Barbra Felix, Agent, Request a Variance of Chapter 9.5.3.6, Table 9-5-5, of the Tesuque Community District Overlay Dimensional Standards TCD RES-C (Residential Community) to Allow a Residence to Exceed 20'. The Property is Located at 54 Big Tesuque Canyon Road within Section 32, Township 18 North, Range 10 East (Commission District 1). SDA-2 (Approved 7-0) John Lovato, Case Manager

CHAIR GONZALES: Do I have a motion?

MEMBER KATZ: I would move to approve the Final Order as submitted.

MEMBER MARTIN: Second.

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

VII. **Petitions from the Floor**

None were offered.

VIII. **Communications from the Committee**

None were presented.

IX. **Communications from the Attorney**

None were presented.

X. Matters from Land Use Staff

None were presented

XI. Next Planning Commission Meeting: September 19, 2019

XII. Adjournment

Having completed the agenda and with no further business to come before this Committee, Chair Gonzales declared this meeting adjourned at approximately 5:05 p.m.



Approved by:

*Charlie Gonzales* 9-19-19

Charlie Gonzales, Chair  
Planning Commission

ATTEST TO:  
*Geraldine Salazar*  
GERALDINE SALAZAR  
SANTA FE COUNTY CLERK

SFC CLERK RECORDED 09/20/2019

SFC CLERK RECORDED 02/23/2024

Submitted by:

*Debbie Doyle*  
Debbie Doyle, Wordswork

COUNTY OF SANTA FE ) PLANNING COMMISSION MI  
STATE OF NEW MEXICO ) ss PAGES: 3

I Hereby Certify That This Instrument Was Filed for  
Record On The 20TH Day Of September, 2019 at 02:51:12 PM  
And Was Duly Recorded as Instrument # 1897215  
Of The Records Of Santa Fe County



Witness My Hand And Seal Of Office  
Geraldine Salazar  
Deputy *Estrella Martinez* County Clerk, Santa Fe, NM

**Mult-Purpose State Building Application**

State of New Mexico  
 Albuquerque Office 5200 Oakland Ave., NE  
 Las Cruces Office 505 S. Main St., Ste 150  
 Santa Fe Office 2550 Cerrillos Road

Regulation and Licensing Department  
 I-25 @Alameda Albuquerque, New Mexico 87113  
 P.O. Box 939 Las Cruces, New Mexico 88004-0939  
 Santa Fe, New Mexico 87504

Construction Industries Division  
 Phone: (505) 222-9800 Fax: (505) 765-5670  
 Phone: (575) 524-6320 Fax: (575) 524-6319  
 Phone: (505) 476-4691 Fax: (505) 476-4619

Date Issued 07.23.12 Processed By: 12.12.7 TRACKING/Permit Number: 2012016079  
 Received By: Mail (A / R) \_\_\_\_\_ Paid By: \_\_\_\_\_  
 Walk - In (A / R) \_\_\_\_\_ Cash Receipt #: \_\_\_\_\_ Check #: \_\_\_\_\_ Total Fees 40.00  
 \_\_\_\_\_ Cash Receipt #: \_\_\_\_\_ Check #: \_\_\_\_\_ Balance Due \$ \_\_\_\_\_

Please check the appropriate type for which you are applying:  
 Building Permit  Commercial  Pre-Bid  Electrical Review Only  Mechanical/Plumbing Review Only  
 Type of Construction: 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20  
 Occupancy Group: A B E H I M R S U  
 Division: 1 2 3 4 5  
 Total Sq Ft. 403  
 Valuation / Sign Contract \$ \_\_\_\_\_

Description of Work:  
 New Construction  Addition  Alterations/Repairs  Re-Roof  Foundation Only  Demolition  Renew Permit # \_\_\_\_\_  
 Wood  Masonry  Adobe  Rammed Earth  Alternative Material  
 Metal / Steel (required Engineer STAMPED)  Baled Straw (required Architectural STAMPED)  Other: (required Architectural STAMPED)

PLEASE PROVIDE THE FOLLOWING INFORMATION (Refer to the BUILDING PERMIT GUIDE or call for addition information):  
163 Tesuque Village Rd 87506  
 Parcel No. and/or Project Address: (must provide physical address) Nearest City/Town/Village to project Zip Code County  
 Subdivision Name Lot Number Township Range Section  
 Provide Written Directions to the project site:  
FR SANTA FE 1ST EXIT TO TESUQUE ON 885.  
JUST PAST VILLAGE MARKET.  
ON LEFT. CLEARLY MARKED 163 IN RED.

Contractor Information:  
 Company Name: \_\_\_\_\_ NM State License Number \_\_\_\_\_  
 Address-No. & Street/PO Box/Rural Route City State Zip Code Phone

Property Owner or Homeowner Information:  
KATERYNA VAN HEISEL, JERRY BARRON 505 231-1100  
 Name: \_\_\_\_\_ City State Zip Code Phone  
163 Tesuque Village Rd Santa Fe NM 87506 505-820-1301  
 Address-No. & Street/PO Box/Rural Route City State Zip Code Phone

Design Professional Information:  
 Professional Name or Firm: \_\_\_\_\_ NM State License Number \_\_\_\_\_  
 Address-No. & Street/PO Box/Rural Route City State Zip Code Phone

PLEASE READ AND SIGN THE FOLLOWING: (Contractors or Homeowner)  
 I hereby acknowledge by my signature below that I have read this application and state that the above is correct. I agree to comply with the requirements of the New Mexico Building Code. I waive my right to require any inspector to possess a search warrant before they enter the premises to inspect the building covered by this permit. However, I waive this right only on the following conditions: The inspector must be approved by the Construction Industries Division and this inspection must be made at reasonable times for purpose of determining whether the work of building or structure on the premises complies with the New Mexico Building Code. I understand that the issuance of this permit shall not prevent the Construction Industries Division from requiring compliance with the provisions of the New Mexico Building Code.  
 X \_\_\_\_\_ Date: 7/5/12

OFFICIAL USE ONLY  
 PLANNING/ZONING APPROVED BY: \_\_\_\_\_ Signature: Colt Wt Date: 7-19-12  
 FLOOD PLAIN APPROVED BY: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 PERMIT APPROVED BY: \_\_\_\_\_ Signature: Ralph F. Flores Date: 07.23.12  
 UPC APPROVED BY: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 NEC APPROVED BY: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

SFC CLERK RECORDED 02/23/2024

SURROUNDING WALL PERMIT DECEMBER 8, 2013

Multi-Purpose State Building Application

State of New Mexico  
 Albuquerque Office 5200 Oakland Ave., NE  
 Las Cruces Office 505 S. Main St., Ste 150  
 Santa Fe Office 2550 Cerrillos Road

Regulation and Licensing Department  
 I-25 @Alameda Albuquerque, New Mexico 87113  
 P.O. Box 939 Las Cruces, New Mexico 88004-0939  
 Santa Fe, New Mexico 87504

Construction Industries Division  
 Phone: (505) 222-9800 Fax: (505) 765-5670  
 Phone: (575) 524-6320 Fax: (575) 524-6319  
 Phone: (505) 476-4691 Fax: (505) 476-4619

Date Issued: 12/13 Processed By: [Signature] TRACKING/Permit Number: 2013 028874  
 Received By: Mail (A/R) YR Paid By: Cash Receipt #: \_\_\_\_\_ Check #: \_\_\_\_\_ Total Fees \$ 136  
 Walk - In (A/R) \_\_\_\_\_ Cash Receipt #: \_\_\_\_\_ Check #: 1366 Balance Due \$ 136

Please check the appropriate type for which you are applying:  
 Building Permit     Residential     Commercial     Pre-Bid     Electrical Review Only     Mechanical/Plumbing Review Only  
 Type of Construction: I II III IV V A B    Total Sq Ft. \_\_\_\_\_  
 Occupancy Group: A B E F H J M R S U    Valuation / Sign Contract \$ \_\_\_\_\_  
 Division: 1 2 3 4 5

Description of Work:  
 New Construction     Addition     Alterations/Repairs     Re-Roof     Foundation Only     Demolition     Renew Permit # \_\_\_\_\_  
 Wood     Masonry     Adobe     Rammed Earth     Alternative Material \_\_\_\_\_  
 Metal / Steel (required Engineer STAMPED foundation & structure drawings)     Baled Straw (required Architectural STAMPED)     Other: (required Architectural STAMPED)

PLEASE PROVIDE THE FOLLOWING INFORMATION (Refer to the BUILDING PERMIT GUIDE or call for addition information):  
159 + 16370 SUQUE VILLAGE RD    TESUQUE    87506    SANTA FE  
 Parcel No. and/or Project Address: (must provide physical address)    Nearest City/Town/Village to project    Zip Code    County

Subdivision Name \_\_\_\_\_ Lot Number \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_  
 Provide Written Directions to the project site:  
FROM SANTA FE TAKE 285 NORTH SMILES TO 1ST TESUQUE  
EXIT. JUST PAST EL NIDO ON LEFT.

Contractor Information:  
 Company Name: \_\_\_\_\_ NM State License Number \_\_\_\_\_  
 Address-No. & Street/PO Box/Rural Route \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_ Phone \_\_\_\_\_

Property Owner or Homeowner Information:  
 Name: KATERYNA VAN HEISCH  
1225 CERRILLOS RD    SANTA FE    NM    87506    9884775  
 Address-No. & Street/PO Box/Rural Route    City    State    Zip Code    Phone

Design Professional Information:  
NA  
 Professional Name or Firm: \_\_\_\_\_ NM State License Number \_\_\_\_\_  
 Address-No. & Street/PO Box/Rural Route \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_ Phone \_\_\_\_\_

PLEASE READ AND SIGN THE FOLLOWING: (Contractors or Homeowner)  
 I hereby acknowledge by my signature below that I have read this application and state that the above is correct. I agree to comply with the requirements of the New Mexico Building Code. I waive my right to require any inspector to possess a search warrant before they enter the premises to inspect the building covered by this permit. However, I waive this right only on the following conditions: The inspector must be approved by the Construction Industries Division and this inspection must be made at reasonable times for purpose of determining whether the work of building or structure on the premises complies with the New Mexico Building Code. I understand that the issuance of this permit shall not prevent the Construction Industries Division from requiring compliance with the provisions of the New Mexico Building Code.  
 X \_\_\_\_\_ Date: 10-14-13

OFFICIAL USE ONLY  
 PLANING/ZONNING APPROVED BY: \_\_\_\_\_ Signature: [Signature] Date: 1-25-13  
 FLOOD PLAIN APPROVED BY: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 PERMIT APPROVED BY: \_\_\_\_\_ Signature: [Signature] Date: 12-03-13  
 UPC APPROVED BY: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 NEC APPROVED BY: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Revised 12/01/05

SFC CLERK RECORDED 02/23/2024



- New Mexico legalized adult recreational use marijuana on April 12, 2021.
- Currently, adults 21 and older may grow up to 12 plants per household without a permit
- CC Luv Buds owner, Linda Cassel has obtained a New Mexico Cannabis Producer Microbusiness license, which allows for a cannabis producer at a single licensed premises to possess no more than 200 total mature cannabis plants at any one time.

## CC LUV BUDS NM Cannabis Producer Microbusiness

A cannabis producer at a single licensed premises that possesses no more than 200 total mature cannabis plants at any one time.



EXHIBIT

# LOCATION

The ± 2.513-acre site is located at 66 Arroyo Coyote accessed via NM 14.

A cannabis producer microbusiness is a Conditional Use within this zoning district.

The outdoor grow will be located on the west side of the property and is not clearly visible from any direction.

Not within 500 ft of a "sensitive use area" such as a school, daycare facility, public park, or religious institution.

Not within 200 ft of another cannabis retailer or consumption area.





**PROPOSED GROW AREA**

The grow site will be 18x18 (324 sq ft) with only 50 plants. This is not a large scale development. Growing will be seasonal and is no different than having a flower or vegetable garden.

**WATER**

CC Luv Buds owner Linda Cassel has a contract with Entranosa Water Association for water use in the cultivation of the plants. Expected use is approximately 15,000 gallons to full maturity.

A State approved water meter has been installed to ensure that water from the well is not being used for the grow facility.

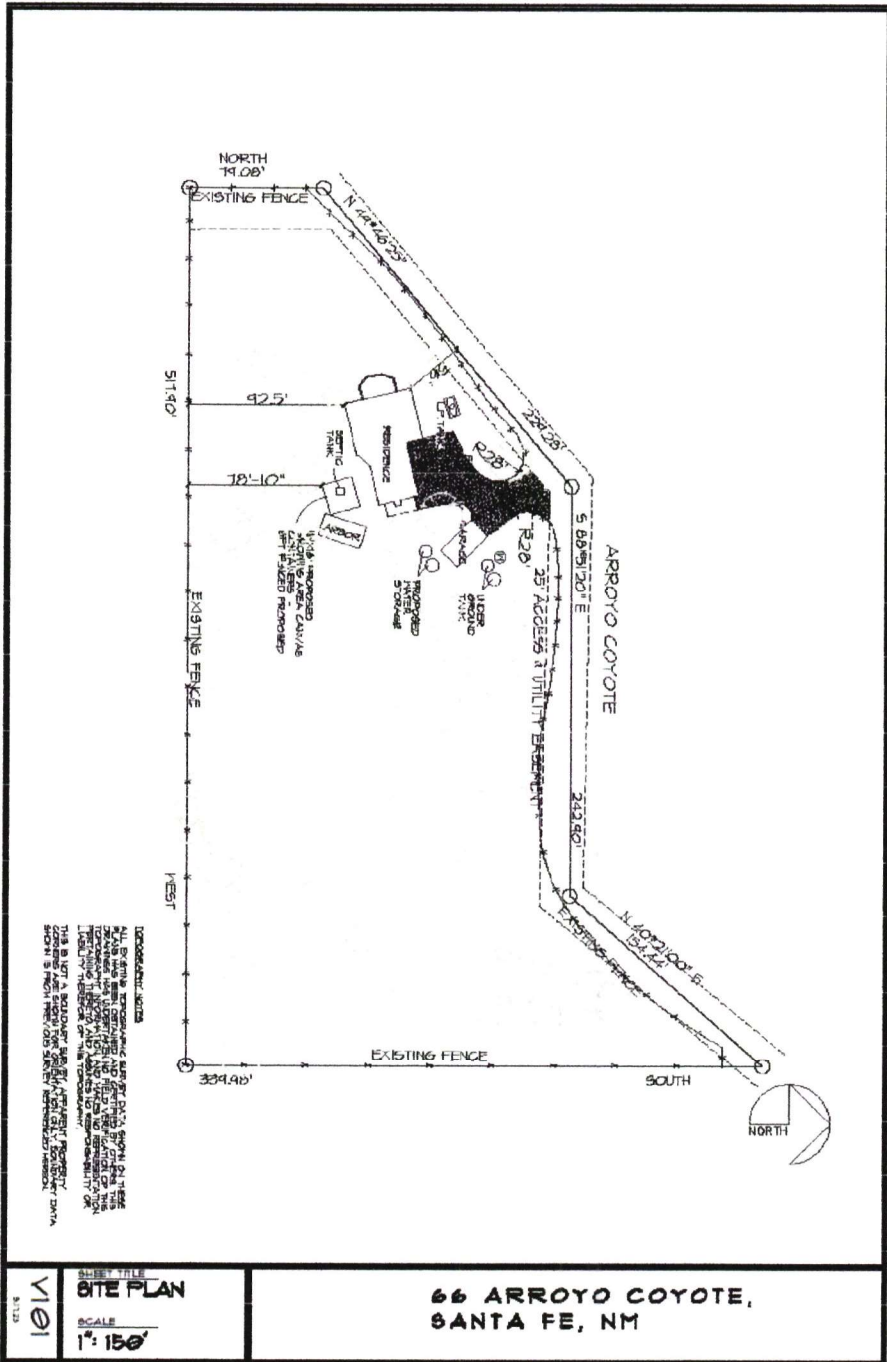
**ROADS**

There will not be additional traffic. The grow area will be maintained by one person, Linda Cassel who lives on site.

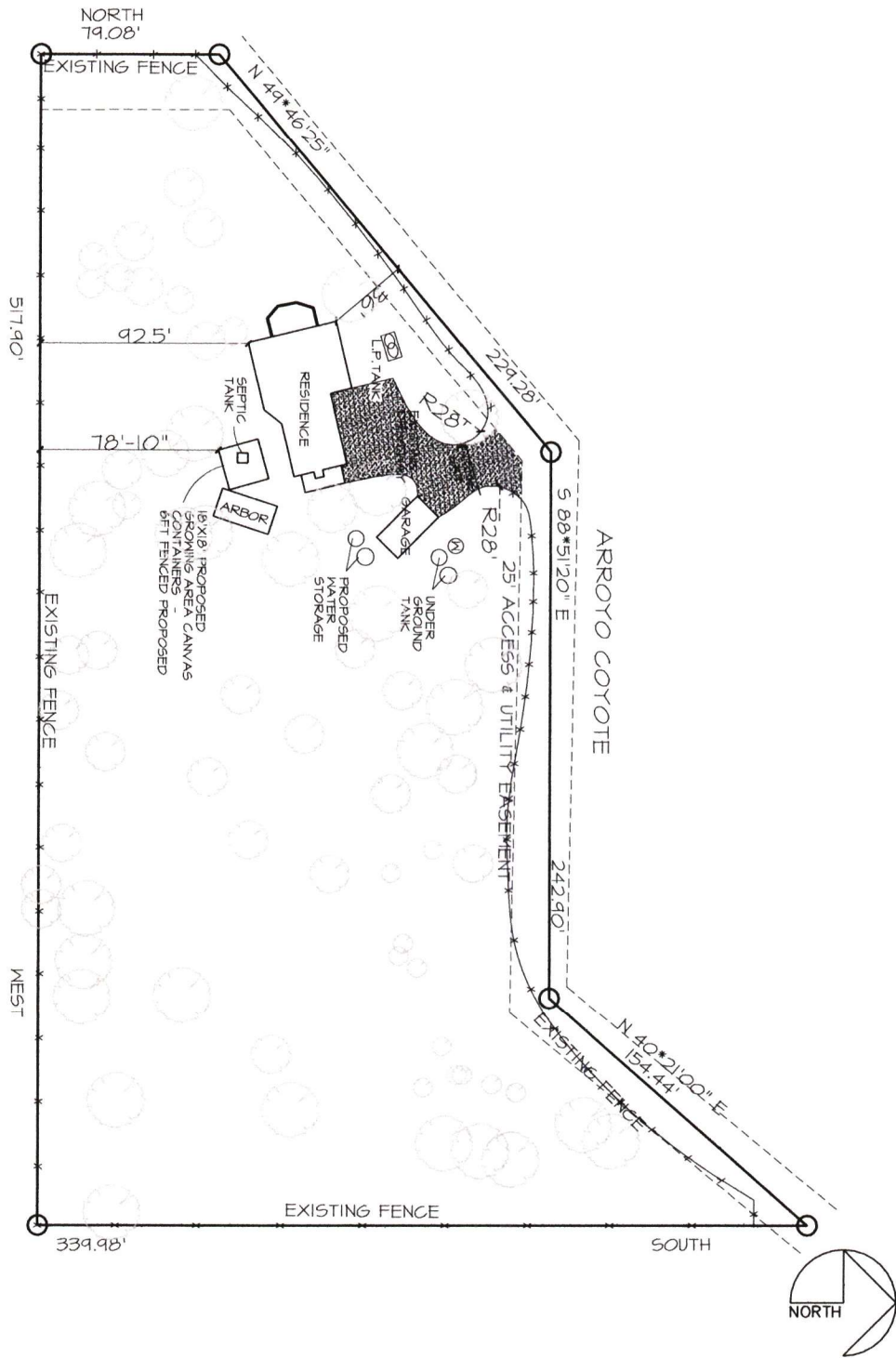
**SECURITY**

CC Luv Buds owner Linda Cassel will implement security systems required by the State including privacy fencing that will compliment the landscape, motion lighting, and surveillance cameras.

**KEY  
FACTORS**



# Questions



**TOPOGRAPHIC NOTES**  
 ALL EXISTING TOPOGRAPHIC SURVEY DATA SHOWN ON THESE PLANS HAS BEEN OBTAINED AND CERTIFIED BY OTHERS. THIS DRAWING HAS UNDERGONE NO FIELD VERIFICATION OF THIS INFORMATION. THE SURVEYOR HAS CONDUCTED VISUAL INSPECTION AND MAKES NO REPRESENTATION OR LIABILITY THEREOF OF THIS TOPOGRAHY.  
 THIS IS NOT A BOUNDARY SURVEY. APPARENT PROPERTY BOUNDARIES SHOWN ON THESE PLANS ARE ONLY BOUNDARY DATA SHOWN IS FROM PREVIOUS SURVEYS REFERENCED HEREON.

**SHEET TITLE**  
**SITE PLAN**  
**SCALE**  
**1" = 150'**

**66 ARROYO COYOTE,  
 SANTA FE, NM**

5/1/23