

MINUTES OF THE
SANTA FE COUNTY
PLANNING COMMISSION

Santa Fe, New Mexico

June 15, 2017

I. This meeting of the Santa Fe County Planning Commission convened on the above-cited date at approximately 4:00 p.m. at the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

Members Present:

Phil Anaya, Chair
Louie Gonzales, Vice Chair
Charlie Gonzales
Renaë Gray
Frank Katz
Leroy Lopez
Susan Martin

Member(s) Excused:

None

Staff Present:

Penny Ellis-Green, Growth Management Director
Vicki Lucero, Building & Services Manager
Paul Kavanaugh, Building & Services Supervisor
Mathew Martinez, Development Review Specialist
Tony Flores, Deputy County Manager
Rachel Brown, Deputy County Attorney
Jaome Blay, Fire Marshal

IV. Approval of Agenda

Vicki Lucero noted that there were no changes other than those posted on the amended agenda.

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Member Martin moved approval and Member Katz seconded. The motion carried by unanimous [7-0] voice vote.

V. Approval of Minutes: May 18, 2017

Member Martin provided suggested changes to her remarks on page 17. Member Katz moved to approve the May minutes as submitted. Member Martin seconded and the motion passed by unanimous voice vote. *[Exhibit 1: Member Martin's Changes]*

Chair Anaya welcomed Charlie Gonzales to the Planning Commission.

VI. Consent Calendar: Final Orders

- A. Case # V 17-5030 Vegas Verdes LLC Road Standards Variance.**
VegasVerdes LLC, applicant, Jenkins Gavin, Inc., Agent, is Requesting a Variance of the Sustainable Land Development Code Chapter 7.11 Road Design Standards, Table 7-12 Urban Road Classification And Design Standards (SDA-1) to Allow a Right-of-Way Width of 65 To 70 Feet In Different Locations Rather than the 120 Feet of Right-of-Way as Required in Table 7-12 Which Classifies the Interior Loop Road as a Minor Arterial. The 69.84-Acre Property is Located at 199 Rabbit Rd. Within Section 11, Township 16 North, Range 9 East (Commission District 4) John M. Salazar, Case Manager
- B. Case # V 17-5010 Michael and Jill Schlumberger and Lee Fugate Variance.** Michael And Jill Schlumberger and Lee Fugate applicants, Ted Harrison, Agent, Request Variances of Ordinance No. 2016-9, The Sustainable Land Development Code (SLDC as Amended), Chapter 7.11, Table 7-13 Road Design Standards to Allow a Roadway to Be Less Than 20' in Width, to Allow an Easement of Less than 38', and to Allow the Roadway to Exceed a 9% Grade. The Properties are Located at 30 and 45 Silver Saddle Road, Within the Vicinity of Spur Ranch Road, Within Section 32, Township 15 North, Range 10 East (Commission District 5) Mathew Martinez, Case Manager

Member Katz moved to approve the final orders and Member Martin seconded. The motion carried unanimously.

VI. NEW BUSINESS

- A. Case # V 17-5050 Barbara Stromquist/Randy Felker Variance.** **TABLED**

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- B. CASE # V 17-5020, Jerry West Variance. Jerry West, Applicant, requests a variance of Ordinance No. 2016-9, the Sustainable Land Development Code (SLDC as amended), Chapter 9, Table 9-14-4: Dimensional Standards of the San Marcos Community District overlay Rural Residential (SMCD RUR-R) zoning district. The Applicant is requesting a variance to exceed the density requirement of one dwelling unit per ten acres by allowing four dwelling units on a 5.963-acre lot. The property is located at 2 Loma Oriente Road within Section 26, Township 15 North, Range 8 East (Commission District 5) [Exhibit 2: *The Alchemy of Memory, Applicant*; Exhibit 3: *Belonging, Applicant*; Exhibit 4: *Two Letters from the San Marcos Association*]**

MATHEW MARTINEZ (Case Manager): Thank you, Mr. Chair and Commissioners. On April 27, 2017, the application was presented to the Hearing Officer. The Hearing Officer recommended denial of the requested variance.

The applicant is the owner of the property as indicated by the warranty deed recorded in the records of the Santa Fe County Clerk on August 12, 2011, as Instrument number 1642514. The applicant is requesting a variance to exceed the density requirement of one dwelling unit per ten acres.

The variance sought by the applicant is regarding Chapter 9, Table 9-14-4, Dimensional Standards of the San Marcos Community District overlay Rural Residential zoning district. The applicant is requesting a variance to exceed the density requirements of one dwelling unit per ten acres. There are currently four dwelling units on the 5.963-acre lot. The applicant has submitted documentation which demonstrates that two dwellings existed prior to 1981 and therefore are consider legal non-conforming. The applicant was unable to provide documentation for the remaining other two dwelling units. Therefore, the applicant is requesting the variance.

The applicant states that in 2011, he received a permit for an art studio/shed and started construction but never finished. Santa Fe County issued a Notice of Violation on August 8, 2016, while conducting a site inspection. Santa Fe County Code Enforcement noticed there was no building permit posted on the property. The applicant states that at that time he was not aware his permit had expired. The applicant came to the Land Use Department to re-new his building permit to complete construction of the art studio/storage shed. At that time, he was informed that his property was in violation for exceeding density. The applicant states that in 1991, one of the structures was permitted as an art studio and through time was converted into a dwelling unit with a bathroom and kitchen. The dwelling unit is currently being rented out to an artist. The applicant further states that the other accessory dwelling unit was originally built as a simple adobe building with no plumbing or a kitchen and just as a print and work area. Throughout the years, it was converted into a dwelling unit with a kitchen, bathroom, and one bedroom. The applicant states that the accessory unit has been rented to several artists and utilized as an art studio over the years.

Staff Response: Although the applicant has utilized all four units as dwelling units, the density for this area is one dwelling per 10 acres and two of these units were

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converted with no permit. The applicant filed an application for an accessory structure on August 10, 2016. During a code inspection, it was discovered that all four units contained a kitchen and a bathroom and therefore are considered dwelling units. The applicant has submitted documentation which demonstrates that two dwellings existed prior to 1981 and therefore are considered legal non-conforming. The applicant states that the other two dwelling were converted from studios to dwellings over time.

The applicant states, All four buildings have water, toilets, kitchens, and single bedrooms and are less of an imprint on the neighborhood and environment than single family dwelling with four or five bathrooms. The combined footprint of four adults living a quiet and environmentally conscious lifestyle, is minimal. Two of them work out of the state for extended periods each year and the applicant lives and works in his studio often traveling and painting elsewhere in the state.

Staff Response: The zoning density for the applicant's property allows for one dwelling unit per 10 acres and two of the structures were converted into dwelling units throughout the years. In 2006 the applicant originally owned a ten-acre parcel and requested a variance to split the parcel up into two five-acre parcels. At the County Commission meeting the applicant stated there were only two dwelling units and additional buildings on the subject five-acre property. The BCC granted the variance requested allowing two dwellings on this property with the condition that no additional dwelling would be allowed on the property. Staff recommends that these two dwelling units be converted back to accessory structures by removing the kitchens and showers and bathtubs in accordance with Chapter 10.3.2.3 and 10.3.2.6 Accessory Structure Requirements.

Recommendation: This matter came before the Hearing Officer for a hearing on April 27, 2017. The Hearing Officer recommended denial of the applicant's request. Staff recommends denial of the applicant's request for a variance to allow four dwelling units on the 5.963-acre lot. The applicant has not addressed the variance criteria. The BCC already granted a variance to allow this five-acre lot with two dwellings, the applicant stated to the Board at that time that there were only two dwelling units on this property. Staff recommends that the two illegal dwelling units be converted to accessory structures by permanently removing the kitchens and showers and bathtubs.

If the decision of the Planning Commission is to approve the application, staff recommends the imposition of the following conditions. Mr. Chair, may I enter these conditions into the record

CHAIR ANAYA: You may.

[The conditions are as follows:]

1. The applicant must obtain building permits for both dwelling units.
2. There shall be no expansion or addition to any of the dwelling units other than the primary dwelling unit.
3. The applicant shall comply with all Fire Prevention Division requirements at time of development permit application.

MR. MARTINEZ: Thank you, and I stand for any questions.

CHAIR ANAYA: Okay. Any questions for staff? Mr. Katz.

MEMBER KATZ: Yes. I'm curious about what happened in 2006. Did staff do any site visit to determine what was there before it was brought before the Board of County Commissioners?

MS. LUCERO: Mr. Chair, Commission Member Katz, in 2006 we were conducting site visits to ensure that there weren't existing violations and it may be that the structures were converted after that, or it wasn't noted that were additional dwelling units on the property.

MEMBER KATZ: Okay. Thank you.

MEMBER L. GONZALES: Chair Anaya.

CHAIR ANAYA: Mr. Gonzales.,

MEMBER L. GONZALES: Mr. Martinez, regarding the liquid waste, is the septic system that's there only sufficient for two units or did they install another septic system for the additional units that they built?

MR. MARTINEZ: Mr. Chair, Commissioner Gonzales, I believe that all dwelling units are on a shared system.

MEMBER L. GONZALES: On one system. Do you know if it's adequate to get the liquid waste from all the four units?

MR. MARTINEZ: Mr. Chair, Commissioner Gonzales, being that they never permitted the extra two structures there would be no way for us to know.

MEMBER L. GONZALES: Thank you.

MEMBER C. GONZALES: Mr. Chair.

CHAIR ANAYA: Mr. C. Gonzales.

MEMBER C. GONZALES: Thank you. I'm curious. So I would say that since there was no permits issued there was no CID inspections from the state?

MR. MARTINEZ: Mr. Chair, Commissioner Gonzales, that would be correct. None that we're aware of.

MEMBER C. GONZALES: Nothing after the fact?

MR. MARTINEZ: That's correct.

MEMBER C. GONZALES: Thank you.

CHAIR ANAYA: Any other questions for staff? Hearing none, is the applicant here?

KARL SOMMER: Good afternoon, members of the Commission. My name is Karl Sommer. My mailing address is Post Office Box 2476, Santa Fe, New Mexico. I'm here today with Jerry West, who is here seated to my left with the black coat on, and Meridel Rubenstein. Both of them are owners of the property and have been for many, many years. They own it in partnership through an entity. They both live on the property and have for over 40 years and with Jerry, many more years than that. His history goes back.

Rarely in our practice and in the land use field do you get to deal with people who were an important part of making Santa Fe what it is and I think in this case it's relevant for you to know that, just so you know what the background is and how we got where we are today in this case. Jerry and Meridel go way back in this town and have been important movers in the art community and helped make the San Marcos Community a cohesive, thriving, friendly, artist-oriented community. And I think that that history is relevant in this case to explain how did we get here.

As you may know, Jerry and Meridel, they're both pretty well known artists in New Mexico and in the world and there have been books published about their work. There's one for Jerry and this is one on Meridel. And I read those when I first met them recently and I wasn't familiar with their work. Reading the book I got to know how

important their work and their presence in this community have been. If I may approach I just have a couple excerpts that I'd like to read to you about their background.

Jerry's family basically homesteaded a larger tract that this property is from and they began and Jerry's been associated with living on this property, improving this property for 50 years. He was instrumental in the construction of these structures over many, many years with the help of his friends in the area, his family, his children, and other artists like him who used this property over many decades. And the little excerpt out of the book tells you a little bit of what happened on this property. And I've highlighted just the first paragraph and what Jerry says in this is: I've bounced continually back and forth between teaching in school, raising a family, while inventing a neighborhood, designing and constructing custom homes and studios, traveling to interesting places, making drawings and etchings and always painting.

Jerry made this property his home and the home for many, many artists over many years and people would come and stay with him and in the seventies he was building at a time when you didn't need permits and I don't know if any of you make site visits here but these buildings are adobe, all hand-done, incredible craftsmanship, a testament to Jerry's skill as basically a self-taught builder. And he added to this property over time, over the decades in the sixties, seventies and eighties. And unfortunately, a lot of that work after the code became effective was done without permits. And we find ourselves here today having to deal with that issue.

I point that out because I think that the members of the San Marcos community see this property as a unique and valuable asset to the community, kind of an artists colony that has been open to them and friendly and Jerry and Meridel have been part of that community. And similarly, out of the book from Meridel's work there's a little blurb about when she met Jerry, and there's a reference in this book, Jerry constructing building after building in what only can be described as a monument to organic architecture.

I say this because the construction of these structures evolved over the course of four decades and they were all done at his hand over time in pieces. And I think that's important because it wasn't a situation where someone just simply ignored the law, they're scofflaws, this is the way Jerry built over a long period of time. Yes, it doesn't save him from a requirement of getting a permit but I wanted you to know that this is what happened in this case and this is how these structures got here over the course of many years and that the people who've done them have done them as part of being part of that community and I say that to you because this room you'll see is not filled with people who are upset. It's filled with people who are in support of Jerry and Meridel in their request for a variance. They see this property and they see Jerry and Meridel's contribution to the community as important.

Now, does that mean you should grant the variance or not grant the variance or put conditions or not put conditions? Probably not. But I think the context of your decision in this case is important because as you all know, and you've got lots of experience, Santa Fe is not filled with shy people and when variances have been requested of a similar nature I've seen this room pack-filled with people practically with pitchforks calling for blood. You don't see that here and there's a reason for it. It's because Jerry and Meridel have made themselves important parts of the fabric of his community and I wanted you to know that.

So let's turn to the merits in this case. All of that uniqueness and contribution does not save them from the requirements of the law. We all know that. A permit was required to make changes in these two structures that are at issue in this case. Unfortunately permits were not obtained. Over the course of the years, Jerry and Meridel have become in serious part reliant on the rental income from the property that they have created, these two particular units. They live in the two conforming units. Jerry built the original one in the early seventies and the second one before the code came into effect in the late seventies and there were two residences on this property.

The requirements of the code with respect to a variance, as you all know, are basically pretty broad and they're pretty general, and I'll just state what they are. Where the request is not contrary to the public interest. Second of all, where due to extraordinary, exceptional situation or conditions of the property the strict application would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner. And finally, that the spirit of the SLDC is observed and substantial justice is done. Those are broad categories and don't tell you exactly what to do in every case.

Jerry and Meridel have asked that you recognize these units so that they can continue to live on this property and I believe looking at each one of these, the question is what is the public interest here? I think that the impact of the development as I think you'll hear from neighbors and particularly some of the leaders in this community that keeping these structures as they are is in the public interest as they see it. I think that obviously is up to you all to decide. I've talked to you about the practical difficulties that will be visited upon Jerry and Meridel. Granted, it's something that they created by renting these structures out but it's been part of the manner in which they've lived on this property and invited artists come and live and do their work there. And Jerry and Meridel continue to do their work there and they continue to this day to paint, and she does photography and she travels around the world teaching when she can and it's an important place for them to be able to continue to do their work.

What is the spirit of the SLDC here and what is substantial justice? I think that is up to you to decide but I would note for you the following. I think everybody agrees here that there are two units on here that are legal non-conforming and those are the ones that Meridel and Jerry live in. They were married, Jerry and Meridel. They are no longer married but they own the property and they're still quite close and they manage this property together and they both do their work there.

This property, in my review of the code, would allow for one accessory structure under the SLDC because two units are legal non-conforming. The code now says you can have one accessory dwelling unit. That would mean that three units would be allowed under the current code. I say that to you because what is the spirit of the code? It is less oriented now to the old code, which was based on a hydrology study done in the – I believe in the early eighties. Now they've gone to a strict sort of Euclidean zoning, which just sets the standards. It's not based on groundwater any longer or the availability of groundwater and that's not a method for determining density.

So I ask you is this out of character with the spirit of the SLDC on this property? Probably not. And we submit that it is not. That it is in keeping with the character. And I'm hoping that you'll hear from others in the community that say the same thing. I'm here to answer any questions you might have. We are asking for your consideration in

granting the variance. If you see fit to grant the variance we would accept reasonable conditions about timeframes whereby this property might be brought into strict compliance with the law so that if you all decide that at some point these properties, these two units should be made back into studios that they have a time to make that transition and a reasonable period of time. I think that would be important. If you all saw fit to say, well, we won't grant you a variance with respect to two of them but we will with respect to one of them because of the policies of the code allowing for one accessory unit, that would probably be acceptable as well.

We're here to try to find a solution and I wanted you to know who you're dealing with, not that that makes all the difference in the world but I think it's important for the context. It helps you decide what the public interest is, I think, and it helps explain how we got here. So with that, we would answer any questions you might have and we appreciate your consideration and I'd like to thank staff, particularly Mat Martinez. He's been extremely communicative and helpful in helping us navigate the process over the course of the last – I think that Jerry and Meridel have been in this for quite some time and he's been extremely helpful in guiding them. Thank you very much.

CHAIR ANAYA: Okay. Do we have any questions for the applicant? Mr. Katz.

MEMBER KATZ: Karl, I have questions about what the Board of County Commissioners did in 2006. And I'm looking at Exhibit 4, which is a satellite view of the area and there is a lot that is outlined in blue on that. My understanding of what happened in 2006 was that the Board of County Commissioners allowed a lot split and what I was curious about was what was split.

MR. SOMMER: If I can come up and show you what was split off, Mr. Chair. The Exhibit 4 to which you're referring shows a blue area. That was the western half of the ten acres that is referred to in those minutes. The other half, Mr. Katz, is this area outlined in red. So you see the entire property – actually, it was a larger piece, LewAllen Gallery owner and now her daughter own that property in the middle which they bought from Jerry. He owns this ten acres and he split that ten acres. The blue and the red.

MEMBER KATZ: There is – between, is there a lot between those two lots?

MR. SOMMER: There is a lot between those and that's – you may remember Ross LewAllen and his wife that owned LewAllen Gallery, they bought that from Jerry. It was part of their artist connection.

MEMBER KATZ: Thank you very much.

CHAIR ANAYA: I have one question please. Karl, you came up here and you showed us on Exhibit 4 two parcels and the parcels that you showed us on Exhibit 4, one's in red and one is in blue, and the locations of them are 20A and 20B in red, and in blue is 202, 204, 206 and 207, for the record.

MR. SOMMER: I believe that's accurate. And I think that those are addresses.

CHAIR ANAYA: And those addresses are Loma – what is the address?

MR. SOMMER: Well, those are Loma Oriente addresses on one and I think the other addresses are Calle de Ocho Vacas. The 02A and 02B.

MS. LUCERO: Mr. Chair, yes, that is correct, and I just want to clarify on the addresses. It would be 02, 04, 06 and 07 Loma Oriente, and 02A, 02B on Calle de Ocho Vacas.

CHAIR ANAYA: Okay. And 03 is still considered a part of that ten acres. Is that correct?

MR. SOMMER: It is not. It is separate from.

CHAIR ANAYA: It never was then.

MR. SOMMER: Well, this was part of an 80-acre parcel.

CHAIR ANAYA: Okay. I got you. Okay. Thank you. Any other questions for Karl?

MEMBER C. GONZALES: Mr. Chair.

CHAIR ANAYA: Mr. Gonzales.

MEMBER C. GONZALES: Actually, I have a question for the County Attorney. On the packet that I have it says that the applicant did not address the variance criteria and it looks like Mr. Sommer is doing that live now. Is that allowed as per the code?

MS. BROWN: Mr. Chair, Committee Member Gonzales, the applicant can speak to whatever they want. The request was for a variance and it's this committee's obligation to apply those criteria to the facts as you understand them. I hope that answers your question.

MEMBER C. GONZALES: Thank you.

CHAIR ANAYA: Any other questions for the applicant?

MEMBER L. GONZALES: Chair Anaya.

CHAIR ANAYA: Yes.

MEMBER L. GONZALES: Karl, are all these units on one well?

MR. SOMMER: They are.

MEMBER L. GONZALES: And have they ever had any problems with the issues regarding the use of the well for all those four units?

MR. SOMMER: None whatsoever. The well was drilled in the seventies and has supplied – never had a problem. It's a very strong well and the water availability on this property for the units that it serves is more than adequate. It's actually a shared well and it supplies water to this property as well as the adjoining property. It was drilled, I think, in the early 1970s.

MEMBER L. GONZALES: So does the well supply just these four units or these four units and an additional property?

MR. SOMMER: Another property. Yes.

MEMBER L. GONZALES: Thank you.

CHAIR ANAYA: Mr. Katz.

MEMBER KATZ: One more question about the status of the property in 2006. Were any of these studios converted with bathrooms and kitchens after 2006 or was that all done before 2006?

MR. SOMMER: I'm not certain. The plat that I saw show studios and I'm certain that the two units that were pre-code were there. The state of construction of kitchens or bathrooms, I'm not certain of them. Mr. West could answer that question directly. Part of what I think happened over time was these structures were built in conjunction with Mr. West and Ms. Rubenstein's art production and the people that they

drew to them to live with them. So I do believe that over time what happened was like a print area would get a bathroom because somebody was working in there. So it may have happened in stages. The plat I saw said studios but I wasn't there so I don't know.

MEMBER KATZ: Thank you, Mr. Katz. Any other questions?

MEMBER C. GONZALES: For staff.

CHAIR ANAYA: Mr. Gonzales.

MEMBER C. GONZALES: Yes, I have a question for staff. Vicki, how is the overall grading and drainage plan? Are they in compliance with terrain management?

MS. LUCERO: Mr. Chair, Commission Gonzales, at the time that they came in for their accessory structure which is under construction right now we did review their grading and drainage plan and it was consistent with code requirements.

MEMBER C. GONZALES: Thank you.

CHAIR ANAYA: Any other questions for the applicant? Hearing none at this time, this is an open meeting, so if we have anybody in the audience that's willing to speak for or against the applicant concerning just the item up for discussion.

[Those wishing to speak were placed under oath.]

[Duly sworn, Walter Wait testified as follows:]

WALTER WAIT: My name is Walter Wait. I live at 48 Bonanza Creek Road. I am the president of the San Marcos Association. San Marcos Association, a registered organization, RO for an area of Santa Fe County that includes the San Marcos District, was asked to comment on the proposed variance brought forward by Mr. Jerry West. After the board members attended a pre-application meeting in December 2016 the board drew up it's finding and submitted them to the applicant on January 13th of this year. These are attached. The application concerned a variance to complete a proposed archive building and our attentions were devoted to whether or not completion of the building was in the best interest of the community. The County was considering a larger picture of the legality of the compound itself.

While it appears to be true that the property contains multiple working spaces that contain both kitchens and bathrooms these structures may have preceded the 1980 land use code and might be considered exempt. The property has for many years been considered as an artists colony and has offered a place for artists in residence to work in a low cost and nurturing environment. It's been unobtrusive and a live-work space is considered an asset to the community.

We believe that disrupting the current state of this property will cause financial and artist harm to its residents and shall cause significant damage to the character and flavor of the San Marcos District. While the current San Marcos District use code does not permit the creation of new compounds or multi-family dwellings we feel that the County should make allowance for those institutions and compounds that have been with us for so many years, have been good neighbors and add to our rural residential lifestyle. We urge the board to grant a variance for the continued operation of this art colony compound and its artist in residence spaces and suggest that the owner define the goals of the facility, apply for a business license and operate the property under the guise of a home business.

If the buildings were built illegally or without appropriate approvals we would urge the County to issue a variance, allow the structures to continue to serve their intended functions, and if considered appropriate, declare them all non-conforming so

that no additional structures could be allowed on the property. If the applicant should be deemed to be in violation of the SLDC or the 1980 code, whichever applies, an appropriate fine should be perhaps levied by the County. We support this variance proposal and we hope that you too will. Thank you very much.

[Previously sworn, Louise Baum testified as follows:]

LOUISE BAUM: Hi. My name is Louise Baum and I am a neighbor. I live in the San Marcos zone area and I'm an artist also. I just want to say that Meridel and Jerry kind of carry the spirit of Santa Fe in the best way. They are beautiful neighbors. They are true artists. They carry on their life with a very beautiful and magnanimous spirit. They are very inclusive. They include people. They make people who live in the neighborhood feel some kind of unity of where we live. They're really a crucial part of this town and of that neighborhood.

They are not rich people; they need this income and they use it carefully. They're very ecologically aware. They live lightly on the land. I hope you will grant this variance. Thank you.

[Previously sworn, Laura LewAllen testified as follows:]

LAURA LEWALLEN: Hello. My name is Laura LewAllen and I am the little plot of land that is in between. Listening to what Karl had to say I was sitting there thinking I actually am a product of that community. My parents knew Jerry. They went to Highlands together and we bought that property when I was in elementary school. I grew up on that property. I was raised and raised – Jerry's kids. We are all a family and that – I guess you would call it a compound. I call it just my home, feels to me like one of the brightest spots on Highway 14 and in that San Marcos area. All those homes are incredibly built. They're adobe. They fit. They don't stand out. They're not ugly trailers and I just feel like Jerry is a second father to me and everything that Karl said is absolutely true about that community being an artists community and it's an amazing place. And I hope that [inaudible] Thank you.

[Previously sworn, Janet McVickar testified as follows:]

JANET MCVICKAR: Good afternoon. My name is Janet McVickar. I live at 17 Vista Alondra, a little bit less than half a mile from Jerry West's properties – property, really. I'm going to speak not as an artist, because I'm not, but more as a community member. And without Jerry I feel that the community would be lacking. It wouldn't be much of a community. Jerry has pulled so many people together into a community and to me this is reminiscent of the early generations of New Mexico where people, family and extended family live in close proximity to one another because they help each other. They have similar interests. They can bring food to one another if they're sick and so forth and so on. And I would like to encourage each of you to consider strongly accepting this variance in this situation. I understand what the code is and I respect that, but I would love to see you actually consider allowing this variance. Thank you.

CHAIR ANAYA: Do we have anybody else out there to speak for or against? Hearing none, the open meeting section is closed. Do we have any questions from the Commissioners at this time for staff or the owner?

MEMBER L. GONZALES: Chair Anaya. Karl, could I ask you another question, please? Regarding this Exhibit 4, you stated that – it's the one that's outlined in blue, correct?

MR. SOMMER: Yes.

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MEMBER L. GONZALES: Would your client, if this board were to approve this variance, would your client agree to not build any more units on this parcel and not split this parcel anymore?

MR. SOMMER: Yes.

MEMBER L. GONZALES: Thank you.

CHAIR ANAYA: Any other questions for – yes, ma'am.

MS. LUCERO: Mr. Chair, if I could just add to what Mr. Sommer said earlier regarding the accessory dwelling unit, whether they would be allowed a third dwelling unit on there as an accessory dwelling unit, we do recognize two of the existing ones as legal non-conforming, and there's a section in the code. It's Chapter 14.6.7.2 that states, A non-conforming use shall not be enlarged or expanded unless such expansion eliminates or reduces the non-conforming aspects of the use. And in this case they would actually be increasing the non-conformity on the property.

CHAIR ANAYA: And that code number again was 14-what?

MS. LUCERO: 14.6.7.2.

CHAIR ANAYA: Thank you, Vicki. Any other questions for the owners at this time or staff from the members? I have one right now and I'd like to know more about where the location of these properties are on 14. If they're more on 14 or are they –

MR. SOMMER: If you go down 14, you pass the prison and when you get to the – right before you get to the San Marcos Store, right before that there's a turn to the left that goes east and that's State Road I think 44. Correct? It's called Shenandoah Trail. So before you get to that intersection at the San Marcos Store, where the 7-11 is on 14. It's not a 7-11; it's a convenience store and gas station. Just before that there's a turn to the left that's a County road. It goes off to the east and it also goes to the west. And the west goes to the Turquoise Trail mine, correct? So if you wanted to go to I-25 at that intersection you'd go west and if you wanted to go to this property you'd go east and you wouldn't go very far. Once you get on this it takes a sharp curve about a quarter mile up I'm being told, and this property is right there on the right.

CHAIR ANAYA: Okay. So it's north of the fire station.

MR. SOMMER: It's east of the fire station. Southeast. The fire station is just before that turn I'm talking about.

MEMBER GRAY: Chair Anaya, I can probably – where you would take a right to go to Bonanza Creek Road you go left to his property and it's about a half mile on Shenandoah Trail.

CHAIR ANAYA: Is it visible?

MEMBER GRAY: Yes.

CHAIR ANAYA: The property is pretty visible off of 14?

MEMBER GRAY: It's visible off of Shenandoah. The [inaudible] are right close to the Shenandoah Trail road but not to 14. No.

CHAIR ANAYA: Thank you, Ms. Gray.

MEMBER L. GONZALES: So the road is – Shenandoah, I guess and Road 44, you go past the fire station and take a left.

MR. SOMMER: That's correct.

MEMBER L. GONZALES: Okay.

MR. SOMMER: Shenandoah goes up and then makes a kind of S-curve. It's right at that S-curve.

CHAIR ANAYA: Thank you, Karl. Any other questions for staff and/or the owners at this time? Hearing none, what would be the pleasure of the board? Mr. Katz.

MEMBER KATZ: Mr. Chair, I would make a motion to approve the application for the variance and I would make findings that the request for this variance, the excessive density is rather than contrary to the public interest in this case, based on the testimony that we've heard certainly in favor of the public interest, it has created a wonderful community out there. And I think that it is pretty extraordinary that it has developed over all of these years and I think that I'd make a finding that it meets the second criteria that there would be peculiar and exceptional practical difficulties in not allowing it. And finally, I would find that the spirit of the SLDC is observed and substantial justice is done by granting this variance.

I am struck, particularly, by the support of the community and the way that this deviation from code supports community. We had a request for a variance, oh, several months back, that was advertised or presented to us as, oh, this won't affect anyone, because we'll only be doing what we're doing on our property. People won't be coming and going. It won't affect the community at all, and that's just such the opposite of this. That was a variance that was initially recommended for approval and the Board of County Commissioners unanimously denied that one.

This I think is the exact opposite where it's a variance that supports the community, is integral to the community and therefore I move that it be approved.

MEMBER L. GONZALES: Chair Anaya.

CHAIR ANAYA: Just one second please. Mr. Katz, can we get on the motion –

MEMBER KATZ: With the conditions that the staff has recommended.

CHAIR ANAYA: Any other amendments?

MEMBER L. GONZALES: Yes. I'd like to second with a friendly amendment. With the amendment that the owners will not build any more units or split the lot any further.

MEMBER KATZ: Okay.

CHAIR ANAYA: That's a friendly amendment. Staff, Vicki, does that follow along code 14.6.7.2?

MS. LUCERO: Mr. Chair, the 14.6.7.2, which is the excerpt that I read earlier in regards to expansion states that a non-conforming use shall not be enlarged unless the expansion eliminates or reduces the non-conformity. So this – staff's position is this would actually increase the non-conformity.

CHAIR ANAYA: So if they put this in the amendment that it not exceed this further –

MS. LUCERO: Mr. Chair, the non-conformity is the two existing dwelling units. So the request to allow the other two to remain on site is an expansion of the non-conformity.

CHAIR ANAYA: That is correct. So I'm trying to figure out a way for the amendments to – or for the motion to work in conjunction with this.

MEMBER KATZ: This is granting the variance. The whole purpose in overcoming what would otherwise be the limits for the density.

MS. LUCERO: Mr. Chair, Commission Member Katz, that would be the case.

CHAIR ANAYA: Okay. Thank you. Okay, we have a motion by Mr. Katz and a second by Mr. Gonzales for approval with recommendations from staff. Hold on.

MS. BROWN: Mr. Chair, if I could clarify, I think you left out a piece of the motion which was to add the conditions proposed by Mr. Gonzales and with the findings proposed by Mr. Katz.

CHAIR ANAYA: Okay, on the motion that was made was for the findings from Mr. Katz and the friendly amendment from Mr. Gonzales, staff conditions. First and second.

The motion passed by majority 5-2 voice vote, with Members Katz, G. Gonzales, C. Gonzales, Lopez and Anaya voting in favor of the motion and Members Martin and Gray voting against.

VII. C. Possible action on the Findings of Fact and Conclusions of Law for Case # V17-5020 Jerry West Variance

MS. BROWN: Mr. Chair, item C will not be acted upon because we have to draft the order based on what occurred today, so that will come back at your next meeting.

CHAIR ANAYA: So item C will be postponed until the next meeting.

VII. D. Case # V 17- 5000 Eldorado Area Water and Sanitation District Variances. Eldorado Area Water and Sanitation District, Applicants, Steve King, Agent, Request a Variance of Section 7.17.5.2.6 To Allow a 800 Square Foot Well Production Facility and Water Treatment Purifying Equipment to be Placed within the 75-Foot Setback from the FEMA Designated Floodplain Hazard Area, a Variance of Chapter 7.11.12.3, Table 7-15, To Allow A 25-Foot Separation From Access Points, and a Variance of Chapter 7.3.3 Setbacks, Table 7-A (Setback Table) to Allow the Facility to be Located within an Easement Which is 7.5 Feet from the Property Boundary. The 0.072-Acre Easement Site is within a 3.56-Acre Parcel and Lies within the Residential Estate Zoning District. The Property is Located at 3 Carissa Drive, in Eldorado within, Section 17, Township 15 North, Range 10 East, (Commission District 5) [*Exhibit 5: Letter from Mr. Loewy; Exhibit 6: Photo from Ms. Hornig; Exhibit 7: Letter from Ms. Hornig*]

MS. LUCERO: Mr. Chair, I'll be presenting this case this evening. On April 27, 2016, this application was presented to the Hearing Officer for consideration. The Hearing Officer supported the application as memorialized in the findings of fact and conclusions of law written order in Exhibit 12, subject to the following conditions.

1. The applicant shall demonstrate that the bank is stable, or design and implement a stabilization plan to be approved by the County.

2. The applicant shall demonstrate the flood levels will not increase due to the development.
3. Compliance with the conditions from the Santa Fe County Public Works Department.

The applicants are the grantees of the easement/property as indicated by the well easement agreement. The applicants are represented by MolzenCorbin to pursue the request for the three variances.

The applicants request an 800 square foot well production facility and water treatment purifying equipment to be placed within their 3,100 square foot easement. A detailed design of Well 19 was initiated in 2014. Based on results of this design investigation, the district proceeded with easement acquisition and well development. The applicants state, As identified in the Eldorado Area Water and Sanitation District Utility Master Plan completed in July 2013, the district has an acute need to develop additional groundwater sources as required to meet our peak summer.

Therefore, the applicant requests three variances to place the facility on the 0.072 acre easement site within a 3.56-acre parcel.

The first variance sought by the applicants is a variance of Chapter 7, Section 7.17.5.2.6, to allow an 800 square foot well production facility and water treatment purifying equipment to be placed within the 75-foot setback from the FEMA designated floodplain. The agent states, Because of site constraints and to accommodate the wishes of the property owner and neighborhood association, the building is situated towards the southeast corner of the acquired easement.

The second variance sought by the applicants is a variance of Chapter 7, Section 7.11.12.3.3, Table 7-15, to allow a 25-foot separation from access points. The agent states, Because of space limitations, the actual driveway setback from the intersection is approximately 25 feet.

The third variance the applicants seek is a variance of Chapter 7.3.3.7 Table 7-A to allow the facility to be located within an easement which requires a 25-foot building setback from the property lines. The proposed structure is 7.5 feet from the property boundary. The agent states, Because of site constraints and to accommodate the wishes of the property owner and neighborhood association, the building is situated towards the southeast corner of the acquired easement approximately 7.5 feet from the property line.

The applicant has addressed the variance review criteria for each variance request and staff has also provided a response.

Recommendation: On April 27, 2017, the application for three variances for the Eldorado Area Water and Sanitation District was presented to the Hearing Officer for consideration. The Hearing Officer supported the application subject to the following conditions listed in the staff report. Mr. Chair, may I enter those into the record?

CHAIR ANAYA: Yes, ma'am, you may.

[The conditions are as follows:]

1. The applicant shall demonstrate that the bank is stable or design and implement a stabilization plan to be approved by the County.
2. The applicant shall demonstrate the flood levels will not increase due to the development.
3. Compliance with the conditions from the Santa Fe County Public Works Department.

Staff recommends denial for the structure to be located within the 75-foot setback of a FEMA designated hazard area. The applicant has not demonstrated that they can meet a 25-foot setback with bank stabilization. Chapter 7.18.11.2, Nonresidential construction, which allows the structure to be located within the FEMA designated flood plain requires the structure to be: one foot above base flood elevation, watertight with walls impermeable to the passage of water with structural components having the capability of resisting hydrostatic and hydrodynamic loads, and effects of buoyancy and proof that the development will not increase flood levels.

Staff recommends denial of the applicant's request for a variance to allow the proposed water facility to be constructed within 25 feet from the property boundary, and the structures driveway to be within the 25-foot separation of an intersection. The variance from the spacing to the intersection could be eliminated if the applicant leased a driveway area further from the intersection. The SDLC was effective on January 16, 2016, with requirements for a 25-foot building setback from property lines. The 1996 Land Development Code included driveway separation standards as well.

Mr. Chair, I stand for any questions.

CHAIR ANAYA: Thank you, ma'am. Any questions for staff from the Commissioners? Mr. Katz.

MEMBER KATZ: I may be missing where it is in the packet but I don't really see a plat as to where the structure is going on the lot and where it relates to the property boundary or the easement boundary of the flood plain and all of that. I'm a little confused. It may be that they're going to show us. It doesn't show where the structure is going, where the driveway is going and all that.

MS. LUCERO: Mr. Chair, Commission Member Katz, on Exhibit 3 it shows an aerial site and the portion that's hatched is the area where the facility will be built. The asterisk is the actual facility itself, and this shows the FEMA flood boundary where they're encroaching into the 75-foot setback. And it shows the proximity to the road.

MEMBER KATZ: Thank you.

CHAIR ANAYA: Thank you, Mr. Chair. Any other questions for staff at this point?

MS. LUCERO: Mr. Chair, Commission Member Katz, also Exhibit 2 shows the two roads, the intersection of the road and the proximity of the facility to the intersections as well.

MEMBER C. GONZALES: Mr. Chair.

CHAIR ANAYA: Mr. Gonzales.

MEMBER C. GONZALES: Vicki, so it looks like a portion of Avenida Torreon actually goes into the floodplain?

MS. LUCERO: Mr. Chair, Commission Member Gonzales, that is correct.

MEMBER C. GONZALES: Thank you.

MEMBER L. GONZALES: Chair Anaya.

CHAIR ANAYA: Mr. Gonzales.

MEMBER L. GONZALES: Vicki, so the new Sustainable Land Development Code, does it allow putting a well in the flood zone or it does not allow it. I'm not clear on that.

MS. LUCERO: Mr. Chair, Commission Member Gonzales, the well itself isn't actually within the flood zone; it's within the setback that's required from the flood zone. So they're required by code to maintain a 75-foot setback from that structure.

MEMBER L. GONZALES: From the FEMA –

MS. LUCERO: Yes. Exactly. And the applicants are proposing a 25-foot setback.

MEMBER L. GONZALES: So is that the variance?

MS. LUCERO: Yes. That's correct. That's one of the variances that is being requested. And a 25-foot setback would be allowed but they would have to provide back stabilization and the applicants have not demonstrated that they have provided the bank stabilization.

MEMBER L. GONZALES: Thank you.

CHAIR ANAYA: Thank you, Vicki. Any other questions for staff? Hearing none, is the applicant present?

[Duly sworn, Steve King testified as follows:]

STEVE KING: My name is Steve King, project manager for Eldorado Area Water and Sanitation District. Mr. Chair and members of the Planning Commission, and also to County staff, I'd like to thank you for taking the time to consider approval of this very important project of ours, consistent with the recommendations last month from the Public Hearing Officer. I've got out consultant, MolzenCorbin here to provide some background and to answer any of the detailed questions you might have. Just to make a couple of initial comments and observations.

First, I just want to continue to emphasize how important this project is to the Eldorado community. In spite, Eldorado has been very aggressive in our water conservation efforts. Suffice it to say we probably have one of the lowest per capita water consumption rates in the State of New Mexico and perhaps in the country. In spite of this, with our existing infrastructure we are not able to reliably meet our peak demand during the summer periods. It's for this reason that we initiated this project over three years ago. This Well 19 project will provide us very critically needed additional supply capacity, particularly to meet that peak demand.

The other thing I wanted to point out was this project, as I said, has been ongoing for over three years. At this point we've already invested over \$600,000 in the planning, in the design and the actual construction of the well at this location. So we're very heavily invested. Our engineers will give you a little more background on that. That was after very extensive hydrogeologic analysis and assessment and planning work and design work before we came to the particulars of the project that you're considering this afternoon.

The third point that I'd like to make is that we have tried very hard to work with the local homeowner association the La Paz Homeowner Association, and as Vicki had indicated in the comments from the County, we've tried to accommodate both the needs and the expectations, not only of the neighbor that granted the lease to the water district for this project, and specifically we talked about that and our consultant will talk more about moving that structure and those facilities as far to the southeast to mitigate any negative impact it has on the line of sight of the property owner on the opposite side of the street that granted us the easement, and also architecturally for the structure, it was designed to try to blend and be consistent with the architecture of the neighborhood. So

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with those introductory comments I'm going to hand it over to the consultant, Casey Cook.

[Duly sworn, Casey Cook testified as follows:]

CASEY COOK: My name is Casey Cook. I'm a consulting engineer with the firm of MolzenCorbin in Albuquerque and I've worked for the district for 2 ½ years. MolzenCorbin has worked for the district for about seven or eight years. Good evening, Commission members. I appreciate you hearing our story tonight. I thought I'd just give you a brief background of the project as it's unfolded so far so that you have context in which we're requesting these variances.

My colleague Steve is going to put up a – just for context as to where we're located, you can see that US 285 that passes through Eldorado heading north is located east of the well, Well 19 location is shown there on the map. Well 19 is the designation of the well.

CHAIR ANAYA: On Exhibits 3 and 2, kind of give us more detail –

MEMBER KATZ: That does a much better job.

MR. CASEY: Let me just give you a quick background and then I'll walk you through a little bit of what I'm showing on these exhibits. I'll do that standing at the lectern here. As Mr. King had stated, the district, like many other water providers in desert regions is always struggling to provide a safe source of water for their customers. And particularly during times of high demand and midsummer and particularly in times of drought, which as we all know has been ongoing in this region for a decade or two.

The district operates somewhere in the neighborhood of a dozen wells. Some of them are declining in capacity and two of their best wells tend to go dry in the summer because they rely on – especially in drought years, because they rely on a good snowpack in order to be productive. As a consequence the district needs new sources of water in order to meet their obligations to their customers and their requirements by law that the state imposes on them as a public water supplier.

The Well 19 project was initiated about three years ago in August of 2014. The district requested their hydrogeologic consultant, Glorieta GeoScience, to undertake a siting study for a new well. They looked at a number of places and based on a favorable hydrogeologic condition at this site, this was the selected well site. Based on that recommendation from the hydrogeologist the district entered negotiations with the landowner at 3 Carissa Road to try to secure an easement in order to place the well and the well support infrastructure on this site.

Early in 2015 that happened and after a fairly lengthy negotiation, in September of 2015 the easement was granted, signed and recorded with the Santa Fe County. Shortly thereafter in late 2015 exploratory drilling of the well started. Shortly thereafter in January 2016 as you're aware the Sustainable Land Development Code went into effect. So by the time the code went into effect the district was highly invested in the project. The well was approximately halfway through its completion in terms of drilling the pilot hole. In May of 2016 the well was completed. It was tested to be capable of 120 to 150 gallons per minutes, which places it among the better of the district's wells now.

Unfortunately, in May of 2016 the water quality sample results came back and showed that this well produced water with elevated levels of antimony. Antimony is a metal and it's regulated by the Environmental Protection Association. The district commissioned MolzenCorbin to look at the ways to either treat or blend the water so that

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the levels could be reduced to below the levels that are considered maximum contaminant levels by the EPA. We recommended blending with other wells from the district which have no antimony and the district asked us to proceed with design and we designed the facilities that are shown in front of you there on that exhibit. We finished the design in October 2016.

So briefly, I'll just walk you through what we're looking at and Steve, would you mind coming up? Steve will go into a little more detail. He's our civil engineer on what we're looking at for the variances and some of the reasoning behind them. I'll try to do this without standing in the way of anybody. For context, north is up. This is Avenida Torreon, which turns and heads east, and then continues on as Carissa Road. The property owner that granted the easement sits right about here and our easement is shown right here. Very small easement, a very small easement to work within.

The variances, Steve if you'd point them out. We're requesting, first of all a floodplain – and here's the FEMA floodplain boundary.

[Previously sworn, Steve Morrow testified as follows:]

STEVE MORROW: The arroyo is out here. It's about 600 feet wide and we're encroaching about 12 feet into the FEMA boundary, which is here. So that's the first variance we're asking for. The second one is the driveway variance. The code requires that our driveway be 200 feet from this intersection and we're actually about 65 from the center of the roadway to center of roadway. We're about 25 feet from the very edge of the driveway to the edge of the road here. But anyway, as you can see, there's no way we can get 200 feet so we're asking for that variance too.

And the other variances, there's a 25-foot side yard setback variance and I think we're 7 ½ feet from the property line, so we're asking for that variance also. So those are the three variances.

And let me explain how this easement came about. This property owner – they own a 3 ½-acre tract I think it is that straddles Avenida Torreon, so a little bit of their property is on the other side. So they said, okay, we'll give you this little corner but we don't want you to block our view over here, so squeeze it as far this way as you can. So that was the request of the grantor of the easement. So I'll just go through the variances one by one and explain why we believe the Sustainable Land Development Code warrants them being granted. Let me talk about the driveway first. I'll go back to this one.

Here's our site. Now, the purpose of the driveway setback is to eliminate hazards of vehicles entering and exiting the site, eliminating conflicts between traffic on the roadways and traffic entering and exiting the site. Heading this direction toward our site, you can see the driveway for about 300 feet so there's plenty of site distance there, and then coming this way on Avenida Torreon, I think it's about 200 feet. You can see the driveway so there's plenty of site distance there. Now, coming this way, this is where we have the 25-foot separation of the driveway from the intersection. But there's a stop sign here at Torreon, so I don't think there will be a hazard because if a vehicle is traveling up Torreon this way they'll have to stop at that stop sign and you can clearly see the driveway from there and you'll see if there's a vehicle entering or exiting.

So I think the spirit of that setback, we're meeting it because really there isn't a hazard. Furthermore, the County did a traffic count and there are only about four or five vehicles during the peak hour, so it's a pretty lightly traveled road and the Eldorado Area

Water and Sanitation District predicts maybe once a day at the most they might have a pickup truck going in there to do maintenance, but that would be the most frequent. It would probably be more like three times a week. Twenty-five is the speed limit, so traffic, theoretically, shouldn't be roaring through there.

So anyway, that's out basic argument for getting the driveway variance. We really – the landowner really doesn't want to give us any additional land so I think it would be very difficult for us to acquire additional property in order to get the driveway further north.

I know the zoning hearing officer recommended approval – let me grab another exhibit – had recommended approval of that variance but with the condition that the driveway be right on the property line, so our driveway shown here right now in our plans and our property line is here, and so the zoning hearing officer recommended approval but with the condition that the driveway be moved all the way to the property line. And I didn't really have – I saw that in the decision but I didn't have an opportunity to discuss it in the hearing and if I had, I would have pointed out that we really need a ten-foot buffer there from the property line to interface with the existing ground. We also need to divert offsite drainage flows around the site through a ditch. And then there's also a fire hydrant right here. So I think we would be asking – of all the staff recommendations that we agree with complying with, that's the only one I think we would have difficulty with. We'd rather have the driveway ten feet from the property line where it is rather than move it right on to the property line. But anyway, that's our argument for our request for the driveway variance.

Now, the second variance we're requesting is we're only 7 ½ feet from the property line and I believe the code that was in effect at that time prior to the Sustainable Land Development Code had a zero lot line setback there and so we're 7 ½ feet back. Now, the idea with those side yard setbacks and rear yard setbacks is that you don't pose a fire hazard or a nuisance to the adjacent property, and in this case, this is all open space here. This is a big drainage easement. So I don't really think we're going to negatively be impacting anybody by having the 7 ½-foot setback instead of the 25-foot setback. So we're asking that the variance be granted on that ground, that we're really not negatively impacting anybody here.

So the other variance we're asking for is the floodplain variance and – so it's a 600-foot wide floodplain and we are encroaching 12 feet into that floodplain. Now, I've agreed – Vicki mentioned the bank stabilization issue. I've agreed to provide a certification. We've examined that bank. It's well vegetated. There are 20 years of aerial photographs that show that that bank is stable. We don't believe it's going anywhere. And I've agreed to meet that condition of Development & Building Services that I provide a certified letter that the bank is stable.

The other thing they asked for was a no-rise certification, which is a FEMA certification where I do a hydraulic analysis and I demonstrate that there will be no rise. I can tell you right now that when I do the analysis there won't be any rise because as I said, it's a 600-foot wide floodplain and we're only encroaching 12 feet. But I'll provide that analysis if that's a condition of approval of the variance. And I believe that the analysis will show that there will be no rise because of this encroachment.

And I'd like to point out too that I understand Santa Fe's rationale behind the 75-foot setback requirement from floodplains. However, it's very common to build in

floodplains. I right now have a school in Los Lunas, a fire station in Belen and a wastewater treatment facility in Los Lunas that are all in floodplains and the requirement is that we elevate it, the structure, one foot above the base flood elevation and that's what we've shown in our construction drawings. We've also elevated all electrical equipment.

CHAIR ANAYA: I have one quick question before we – before I lose my train of thought but from the center of the flood zone to the beginning of the 12 foot, what's our foot difference variances? What's the topical?

MR. MORROW: I'm sorry.

CHAIR ANAYA: What's the difference? Is it ten feet from the center of the flood zone to where the 12 foot starts on the setback? The elevation. Right.

MR. MORROW: I'm thinking it's about five feet.

CHAIR ANAYA: So you don't know at this point?

MR. MORROW: I do know but I don't have that information with me. But what we've done – what we did was we figured out what the base flood elevation is. We know what that is. We know what the height of the 100-year flood is and so we've elevated our structure one foot above that, and all the electrical equipment. And that's standard in most communities. You're allowed to build in a floodplain. That's what I'm doing with the school and the fire station. If you elevate one foot above the base flood elevation.

CHAIR ANAYA: That's FEMA's requirement?

MR. MORROW: Yes. Yes. Those are federal regulations.

CHAIR ANAYA: Thank you.

MR. MORROW: So I've agreed to do that, provide that no rise certificate and I've agreed to provide the bank stability certificate.

MEMBER KATZ: Where is the bank on that picture?

MR. MORROW: I'm sorry.

MEMBER KATZ: The bank. Where is the bank?

MR. MORROW: The bank is – let's see. I think it's out here.

MR. CASEY: The arroyo kind of comes through here. You can see the chamisa growing in the arroyo by the bank. It crosses over the road. There is no culvert so the road is kind of a flood crossing and it is in the floodplain as was pointed out earlier. The bank is not very well defined.

MEMBER KATZ: That doesn't help at all.

MR. CASEY: Let's turn it the same way as the other one. The arroyo is coming through here.

MR. MORROW: Yes. This is the arroyo down here and this is the bank.

MR. CASEY: This is the bank here. So the bank is about 30 or 40 feet from the corner of the building.

MEMBER KATZ: Thank you.

MR. MORROW: And you can see that the bank itself is roughly four feet high. These are one-foot contours. And the center of the arroyo is way out here, so I'm thinking it's about five feet. Okay, so that's our rationale for the three variance requests. I'd like to point out that this property is zoned residential estate. That's the zoning designated in the Sustainable Land Development Code and that type of zoning specifically allows water wells and water treatment facilities. So there's no issue with the zoning here even though we're in a residential subdivision.

And as far as meeting the criteria for the variance, the request is not contrary to the public interest. I think that Casey and Steve emphasized the importance and the urgency of this project to keep Eldorado's water supply sufficient and they have run into problems in these drought years so it is pretty critical. And where due to extraordinary and exceptional situations or conditions of the property the strict application of the code would result in peculiar and exception practical difficulties or exception and undue hardship on the owner. And I think in this case, because the ratepayers of the Eldorado water district have already invested \$600,000 in the project; it would be a real hardship for them to move this facility. And three, so that the spirit of the Sustainable Land Development Code is observed and substantial justice is done, I think that to make those ratepayers spend an equal amount on a new site would be kind of an injustice to them. So are there any questions?

MEMBER C. GONZALES: Mr. Chair.

CHAIR ANAYA: Mr. Gonzales.

MEMBER C. GONZALES: Yes, actually I have a couple of comments and so forth. At this point I think the engineering plans you submitted are kind of incomplete. I have a problem looking at topos and only partial topos of lots instead of a topo of the whole lot. I'd like to see cross sections of the arroyo and see what we're up against to see the stabilization. I'd like to see some kind of details of the bank stabilization – rip-rap, height, thickness, type of rip-rap, rock rip-rap, wire rip-rap, all the engineering details. I'd like to see an elevation certificate from FEMA as well. Is anyone in your office certified as a FEMA administrator? You are? So you know what I'm talking about.

MR. CASEY: We have done an elevation certificate and did submit, I believe to the County. It may not be in your packet but it was asked for and we did submit it.

MEMBER C. GONZALES: Also, when you're looking at plans and so forth if there's detail supplied, when they're inspecting it and we don't have the same version in mind we don't know what you're building. So I'd like to see some like details showing how you're going to stabilize it, what manner, if you're going to reseed it or things like that.

MR. MORROW: I can address that. So our plans actually show – our well house is here and this is an embankment around the well house and it's stabilized with rip-rap. So we did that. There's rip-rap on all this so we're diverting – we're actually getting a lot of offsite flows from this direction so we're diverting all those but we rip-rapped these slopes just anticipating that if for whatever reason the base flood elevation rose above the 100-year elevation that we would be well protected here.

Now, as far as the actually bank of the arroyo goes, we're trying to avoid disturbing that. It looks well established and I said I would provide a stamped certification stating that we've examined it and it is stable and we don't anticipate that it's going to move.

And then there's another thing too that we didn't discuss but I think Vicki kind of touched on it is that there's a requirement in the code that the building be stabilized, so if you look at our structural drawings we've got spread footings that are buried one foot and we've stated that that provides sufficient anchorage to counteract the buoyant forces in the event that was a flood.

MEMBER C. GONZALES: It seems to me you're trying to force this into that little sliver of land. I don't know if you're going to have enough room to do your grading and drainage, your terrain management requirements as well. I'm just bringing up these issues that I see.

MR. MORROW: I'm sorry.

MEMBER C. GONZALES: I said it looks like you're trying to cram this into that little corner, that sliver of land. I also haven't seen a grading and drainage plan showing your terrain management requirements, ponding required for impervious surface, stuff like that.

MR. MORROW: We did do hydrology calcs.

MEMBER C. GONZALES: And calculations as well. Calculations as well.

MR. MORROW: Yes. And this serves as our pond here. This channel actually is depressed and then there's a spillway where it runs out. And that's one of the reasons we'd like to get that ten-foot separation from the property line so we can provide the ponding requirement. We do have a drainage report in our plan set that addresses that. And yes, for cross sections also. So the cross sections of the arroyo – here's the drainage report if you want to take a glance at that. But I can sure send you a copy of that. As an attachment to my no rise certificate I would provide a cross section of the arroyo and show a hydraulic analysis before and after we built the project so that you can see that we wouldn't be causing a rise in the existing flood level.

MEMBER L. GONZALES: Chair Anaya.

CHAIR ANAYA: Mr. Gonzales.

MEMBER L. GONZALES: In some of your testimony you stated that the land – that the landowner wanted you to place this facility so it would disturb his view. The thing is there's a number of other homes around here, and I don't know if you took that into consideration, but these pumps, do they generate a lot of noise when they're actually operating?

MR. CASEY: There will be two pumps for this project. One is down deep in the well and is very hard to hear even when you're standing there next to the well. The other pump is for the blending system. It will be enclosed in a building, a stick and stucco building and you should not be able to hear much more than a very low hum when it's on.

MEMBER L. GONZALES: So when you pump this water out of the ground, you're going to be treating right there, and then you're going to put it back into the system and then – so you won't have a tank there, right?

MR. CASEY: Correct. No tank. It will be treated, blended really with water containing no antimony to bring the levels of antimony in the Well 19 water down to acceptable levels. Then it will go through what's called a mixer inside the building, and it will make it's way into the system.

MEMBER L. GONZALES: Are you going to screen it at all? Everything is going to be enclosed in a building? You're going to screen all of it and so it will be kind of quiet for the adjoining. A lot of people are obviously concerned about the views we have. They don't like them disturbed too much. So will this little building blend in with everything else over there?

MR. CASEY: Correct. The architecture is actually meant to blend in with the other buildings in the neighborhood. It's more or less a pueblo style building and the doors are inset with porches. It's going to look like a small house. The district asked in particular to keep the roof height low enough that it would look like a dwelling structure. So that's to mitigate any of the adjoiners. The guy that donated – you have his concerns but the other people that are also there, I don't want you to hurt their view also.

MR. CASEY: My understanding is that the La Paz Neighborhood Association is on board with this project and they are the neighbors that surround it.

MR. MORROW: We've built quite a few utility buildings for the Eldorado Water and Sanitation District and our architects have worked with the associations out there to come up with a design and this is kind of our standard design now. But come up with a design that conforms to their design guidelines so I think the residents in general are pretty happy with the appearance of these buildings.

MEMBER L. GONZALES: So what – did the association buy water rights? Are they going to put water rights at this site or how is that working?

MR. CASEY: The well is permitted as a supplemental well to the other – within the water rights the district already owns. It's not adding any additional water rights to their inventory but it is part of that inventory now, so it's sharing water rights with their other wells.

MR. KING: Just so you understand, this actually – this is one of 11 wells that serve the entire community. So the water from this well normally serves that immediate neighborhood but it's part of the water service for the entire Eldorado community.

MEMBER L. GONZALES: Thank you.

CHAIR ANAYA: I have one question on the aquifer. Where is that well located? Is it located downstream of all the other wells? That's one question. And the second question that I have is what is the square footage of the well itself, or not the well, but the building that's going to be housing all the equipment?

MR. CASEY: According to the hydrologist retained by the district there's really three primarily aquifers that the district's wells draw from. There's the alluvial aquifer along the Galisteo Creek. Two of their wells that flow from that and those are the two wells that suffer badly in drought years because that alluvial aquifer really depends on a good snow pack melting down, sending water downstream and soaking into the ground. A number of those wells are completed in a deep aquifer called the Madera limestone, which is a limestone aquifer, obviously, and other wells are completed in fractured granite. Actually, there's a fourth. There is also a somewhat shallow aquifer that a few of the wells are completed in called the Tesuque formation, which is more or less decomposed granite washed off the Sangre de Cristos that's been deposited and contains groundwater.

CHAIR ANAYA: What's your average depth?

MR. CASEY: It varies greatly. The wells that are drawing from the alluvium are maybe a couple hundred feet. This well is one of their deeper wells, Well 19 that is. It is close to 1,000 feet. Quite a range. The downstream, in terms of relative hydrologic position, this well is mostly down gradient of their other wells. A lot of their wells are kind of east of this well and a number of them are south, kind of along the same gradient. So somewhat down gradient of a few and up gradient of others.

CHAIR ANAYA: Is this why you're getting so much contaminants?

MR. CASEY: The antimony is thought to be from penetrating the granite. I think the hydrogeologist thought that during the course of drilling there were some cuttings that came up that looked like there was some oxidized material, maybe some pyrite that may have been carrying the same minerals that contain antimony and now leached into the water.

MR. KING: I'd just like to point out just in response to what I thought [inaudible]. With the exception of the antimony and the historical sampling that we've done, which is limited, it looks like – we're optimistic that that concentration will continue to decline over time. With the exception of that constituent, the water quality is excellent. It shows an excellent water quality with that one exception. We have a very pro-active –

CHAIR ANAYA: That's all it takes.

MR. KING: Well, that's why we have a very pro-active plan to ensure that we're willing to exceed the federal requirements to comply with that constituent.

CHAIR ANAYA: Okay, and the State Engineer has already seen all the samples?

MR. CASEY: Yes, it's actually the New Mexico Environment Department that oversees water quality and we have made the submittal to NMED and we've gone back and forth with our idea of blending and gotten approval from them for this project.

CHAIR ANAYA: So you haven't gotten any approvals from them or from the State Engineer or anybody yet? I know it's an existing – it's a supplementary well. I understand that.

MR. CASEY: Correct. All the approvals are in place. The supplementary well permit is in place, signed and approved. And the approval of the project from the stand point of the Drinking Water Bureau at the New Mexico Environment Department, that's been approved as well.

CHAIR ANAYA: Okay, so when you come back with a permit, or the request for the permit, then you'll have all of that in order? You would have to be.

MR. CASEY: Yes, correct. We can't build this until all of that is in order and all of that has been secured to date.

CHAIR ANAYA: Okay. Thank you. Any other questions for –

MR. CASEY: You know, I didn't answer your second question, which was the square footage. It's basically – I can't do the math real quick in my head but it's 800 square feet. 23 feet by 33 feet is the building size.

CHAIR ANAYA: So it is pretty small.

MR. CASEY: As small as we could make it.

CHAIR ANAYA: I think I read that somewhere. I'm sorry. Any other questions? Mr. Gonzales.

MEMBER C. GONZALES: Yes, I have one more question. Do we know the location or the leach fields or septic tanks for number 20 and 24?

MR. CASEY: As part of the submittal to the Environment Department they asked for any potential sources for a new source of water supply like a well, any source of contamination that exists within a thousand foot radius. We did supply that information. There is no wastewater treatment out in the district so there are leach fields for every home. Specifically where they are, I'm not sure. They're not mapped, but

oftentimes you can see them in the aerial photos by the greenest spot on the property, other than the lawn.

MEMBER C. GONZALES: So we're not really sure how far this well house is going to be from the septic.

MR. CASEY: We could probably make a pretty good guess. That's true. Do you want to comment on that, Steve?

MR. KING: I don't know the particulars but we just recently, in October of 2016, completed a source water protection plan, and so in that source water protection plan they did specifically identify the location of any kind of septic or leach field relative to every one of our wells including Well 19. And so we have a pro-active plan now to continue to monitor and be aware of and conscientious of that potential source of contamination.

CHAIR ANAYA: Any other questions for the applicants? Hearing none, at this point this is an open meeting. Is there anybody in that audience that wish to speak for or against the project?

[Previously sworn, Joe Loewy testified as follows:]

JOE LOEWY: Good afternoon. My name is Joe Loewy. I live at 6 Monterrey Road, Santa Fe. In the interests of full disclosure I have been an appointed Santa Fe County Commissioner for four years serving as a board member of the County Public Housing Authority Commission. I am here today as a ratepayer in the Eldorado Area Water and Sanitation District, EAWSD, and a volunteer appointed member of the EAWSD Capital Planning Advisory Committee.

I wish to briefly speak today in support of Case V 17-5000, EAWSD Variances. I built my home in 2012 in Eldorado. One of the most significant reasons for my wife and I to move to Eldorado was the fact that the water district had a safe and reliable water system with sufficient wells to produce water for the approximately 7,000 residents in our area. As a volunteer committee member of the water district I have come to appreciate the critical need for additional water sources, especially in order to meet the summer peak demand. Construction of the Well 19 project is essential in order to meet this need.

The variance requests proposed are logical and preserve the health, safety and aesthetics of the community and environment. The project has been reviewed and is supported by the neighborhood association that the well is located in. Please approve the variances requested to enable this project to move forward as quickly as possible. This well is critically needed by my neighbors, my family and the entire Eldorado community. Thank you.

CHAIR ANAYA: Anybody else?

[Duly sworn, Christina Hornig testified as follows:]

KRISTINA HORNIG: My name is Christina Hornig. I live with my husband Tim and daughter Emma at 24 Aster Way in La Paz, a property adjacent to the property where the Eldorado Area Water and Sanitation District proposed building a facility that violates Santa Fe County's Sustainable Land Development Code. I am here to request the Commission to deny the variance that EAWSD has requested as they are not in the public interest. Having all of the variance process as public hearings have been scheduled, which some have been cancelled and postponed, we are familiar with the recommendation made by land development analyst senior John Lovato that the

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variances should be denied. We will address the reasons contained in Mr. Lovato's memo of April 27, 2017 as well as some additional concerns that we have.

Forgive me if some of this is repetitive but we feel it's important to repeat and my words will be brief. We concur with Mr. Lovato's assessment that "The structure and well should have been placed farther northeast for safety concerns and code compliance for access. FEMA designated setback requirements and boundary setbacks." We also note that EAWSD communications with the County has repeatedly discussed the choice to locate the structure and well in a location that does not impact the property owner's view. The location places the structure directly in the line of view from our portal to the Manzano Mountains. We were never consulted as to the location of the wells. And I've brought some pictures that I can share now if I may approach or save until I'm finished, whatever you prefer.

We concur with Mr. Lovato's assessments that "All structures must follow the SLDC code requirements for setbacks. There is ample room on the property to meet the 25-foot setback, the structure and property boundary lines within the FEMA designated floodplain. The applicants should have been aware of the required setbacks and moving the structure northeast would greatly improve safety."

I'm going to just take a step back and say the wall on the picture that I gave to you, the wall at the bottom is the wall around our backyard and my daughter is standing where the proposed well is and that was taken this morning.

We concur with Mr. Lovato's recommendations to deny "The structure to be located within the 75-foot setback of a FEMA designated hazard area" and to deny "a variance to allow the proposed water facility to be constructed within 25 feet from the property boundary and the structure's driveway to be within the 25-foot separation of an intersection.

In addition to the issues raised in Mr. Lovato's memo, we would like to address the EAWSD's rationale for the well as being in the public interest. Following the generally compelling logic that increased water availability would benefit the community. The concern here is that the water that would be pumped from the proposed well contains harmful levels of antimony above the EPA's legal limit for drinking water. Well, EAWSD proposed to lower the levels of antimony below the legal limit by mixing the water from this well with water from other well, as members of the public we do not see this is in our interest to introduce poisons into our water supply, even at levels below the legally defined maximum.

Commissioners, please take care and consideration as you review this variance request and deny it. Thank you. Oh, I just wanted to say too that I have provided written comment for public record too. Thank you.

CHAIR ANAYA: Anybody else from the audience?

[Previously sworn, John Poles testified as follows:]

JOHN POLES: Good evening. My name is John Poles. I reside at 46 Avenida Torreon within approximately a half a mile of the well building. I'm also the president of the La Paz HOA where the well building is located. One point of clarification in your case description, you say the property is located at 3 Carissa Drive in Eldorado. It is not in Eldorado; it is in the La Paz HOA.

The water utility has been very accommodating in helping design a well building that will sit within our architectural covenants. We appreciate that. One other point of

clarification, within the past three years there has been a flash flood that came through the area of Carissa Road and Avenida Torreon was under water and it went in all three directions approximately 50 feet. It happened at night so we don't know the height of the water. We could just see how far it went in all three directions. Thank you for your time.

CHAIR ANAYA: Thank you, sir. Anybody else? The public hearing is closed. Do we have any questions from the board members to staff or the owners at this time? Vicki.

MS. LUCERO: Mr. Chair, if I could just kind of go back to Commissioner Charlie Gonzales' question about the elevation certificate. The applicant did submit an elevation certificate so we do have that on file and it states that the building will be a foot above the base flood elevation.

And then also I just wanted to clarify or correct a comment I made earlier. I think the applicant probably addressed that, but in regards to the setback on the floodplain, I think I may have stated that they were meeting the 25-foot setback. They're actually encroaching into the floodplain with this structure, but the 25-foot setback is the minimum that the code would allow with bank stabilization. So I just wanted to make that clarification.

CHAIR ANAYA: Mr. Katz.

MEMBER KATZ: Vicki, the stabilization certificate, will that satisfy the requirements that staff had?

MS. LUCERO: Mr. Chair, Commission Member Katz, the elevation certificate that they provided was not addressed in the conditions because they had submitted that already, but it still doesn't satisfy the requirement for the setback.

MEMBER KATZ: Right.

CHAIR ANAYA: Any other questions, Commissioners, of staff or the owner?

MEMBER L. GONZALES: Chair Anaya.

CHAIR ANAYA: Mr. Gonzales.

MEMBER L. GONZALES: Vicki, I'm still not clear on the setback and the variance. Why is the setback so important? Is that because if you did something within the floodplain that would affect the aquifer? Why do they have that? Or was that just a flood zone designation?

MS. LUCERO: Mr. Chair, Commission Member Gonzales, the 75-foot setback that's required from the edge of the floodplain is actually an erosion control setback. So if that – if the flood waters came and eroded, the building would be set back far enough to where there wouldn't be any damage to the structure or undercutting.

MEMBER L. GONZALES: So it's purely erosion.

MS. LUCERO: That's correct. Yes.

MEMBER L. GONZALES: So if we have a major flood there and it had an impact on the back and the building would be affected, that's what they're worried about, is that the structure could be damaged or something like that?

MS. LUCERO: Mr. Chair, Commission Member Gonzales, that the structure could be damage or that parts of it could flow into the floodplain and cause damage further downstream of further rise in the flood elevation.

MEMBER L. GONZALES: Thank you.

CHAIR ANAYA: Any other questions? Hearing none, what would be the pleasure of the board? Mr. Gonzales, Charlie.

MEMBER C. GONZALES: Mr. Chair, I would like for Case V 17-5000, Eldorado Area Water and Sanitation District Variances, I would recommend denial until we can get some more information on the engineering plans.

CHAIR ANAYA: We have a motion for denial. Do we have a second?

MS. BROWN: Mr. Chair, before you move forward, can I ask a point of clarification on the motion? Was that a motion to table so that additional information could come in or was that a motion to deny?

CHAIR ANAYA: Denial.

MEMBER C. GONZALES: That was a denial. But I'd also like to maybe also add to that is I would like to see if possible, if it would be possible for them to explore moving the structure the way staff wants it.

CHAIR ANAYA: So it's just a flat denial.

MEMBER C. GONZALES: Based on incomplete engineering.

CHAIR ANAYA: We have a motion for denial. Do we have a second?

MEMBER L. GONZALES: Second.

CHAIR ANAYA: We have a second by Mr. Gonzales.

The motion to deny passed by 5-2 vote with Members C. Gonzales, G. Gonzales, Martin, Lopez and Anaya voting with the motion and Members Katz and Gray voting against.

VI. E. Possible Action on the Findings of Fact and Conclusions of Law for Case # 17- 5000 Eldorado Area Water and Sanitation District Variances

MS. LUCERO: Mr. Chair, the Case E is the final order that was prepared for this case but based on the decision of the Planning Commission we will revise the final order and bring it back for a vote next month.

CHAIR ANAYA: Thank you, ma'am.

F. Petitions from the Floor

None were offered.

G. Communications from the Commission Members

Member Katz stated he would not be able to attend the July meeting.

H. Communications from the Attorney

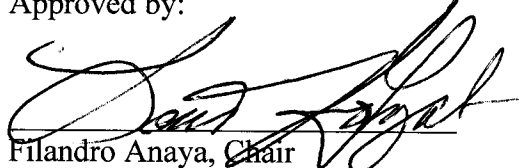
None were presented.

I. Next Planning Commission Meeting: July 20, 2017

G. Adjournment

Having completed the agenda and with no further business to come before this Committee, Chair Anaya declared this meeting adjourned at approximately 6:05 p.m.

Approved by:

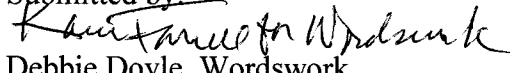
 FOR:
Filandro Anaya, Chair
Planning Commission

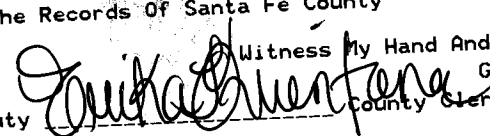
ATTEST TO:


GERALDINE SALAZAR
SANTA FE COUNTY CLERK



Submitted by:


Debbie Doyle, Wordswork

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss
I Hereby Certify That This Instrument Was Filed for
Record On The 25TH Day Of July, 2017 at 10:09:58 AM
And Was Duly Recorded as Instrument # 1831846
Of The Records Of Santa Fe County
Deputy  Witness My Hand And Seal Of Office
Geraldine Salazar
County Clerk, Santa Fe, NM

PLANNING COMMISSION MI
PAGES: 44

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COMMISSIONER MARTIN

strike first sentence up to the dash "-" before "The applicant" and replace:

My "no" vote was the result of the applicant's failure to substantiate their claims of the costs of improvements demanded by adherence to the SLDC.

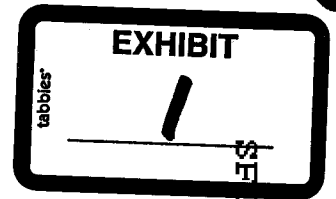
Sentence beginning, "So Often" replace with

So often we see in cases like this that the cost of improvements are very much overstated in order that the applicants can get their variance. This is a frequent claim, seldom substantiated, and a situation the Commission should be able to recognize.

Sentence beginning "So that's the reason", replace

I voted "No" because it wasn't evident that the costs would be as extensive as the applicants claimed, and because they failed to adequately document their costs estimates./

Susan Martin,
cell (505) 670-3279

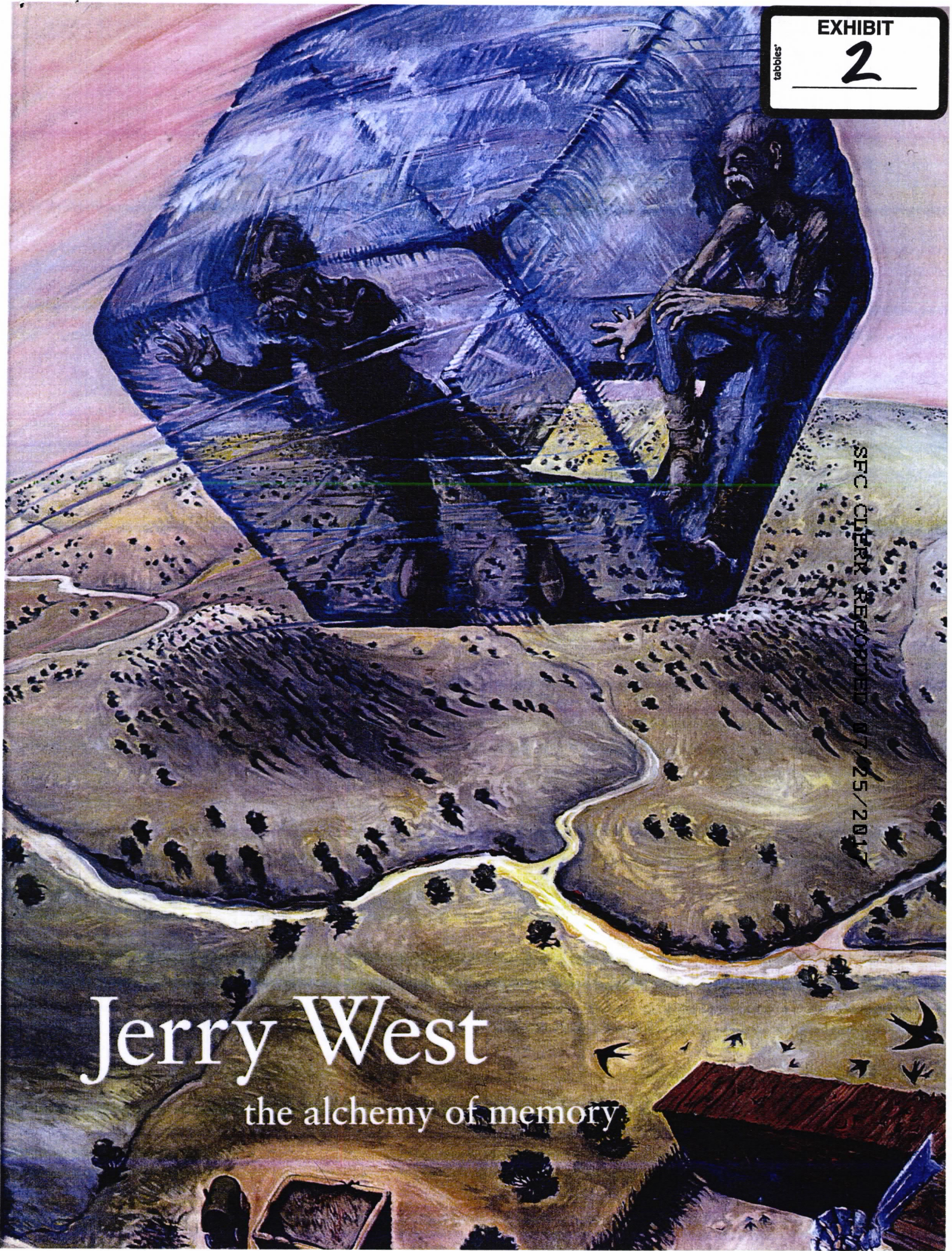


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Jerry West

the alchemy of memory



Artist's Statement

Jerry R. West

This book presents paintings, and some prints, primarily from the work I produced since the late 1960s. In many ways, the paintings are as variegated and as disparate as my own life. I bounced continually back and forth between teaching school, raising a family while inventing a neighborhood, designing and constructing custom homes and studios, traveling to interesting places, making drawings and etchings, and always painting. If there is some degree of coherence or unity in the work, it results from my deep connection with and love for the high desert prairie world with its lizards, snakes, nighthawks, and coyotes, along with the humans who coexist in it.

Like all painters, I have had a love affair with paint and the act of painting, and with that, the fascination and romance that accompany our own projections that we place on the lives of painters. Also, like many other painters and artists, I have had inspirational and caring mentors. My own list of painter heroes includes Rembrandt, Van Gogh, Goya, Orozco, and Rivera, with whom I would like to believe I share a social conscience.

My father, Harold E. West, was a printmaker and painter, and he was a major inspiration for my becoming an artist. I grew up in an environment that included his many artist friends and acquaintances. My family welcomed a wide variety of people into our lives, and I have been influenced by that interest in, and respect for, a broad socioeconomic cross-section of humanity. I had no shortage of living heroes.

Among my contemporaries is a long list of poets, writers, and builders who also profoundly influenced me. Of course, my social and artistic points of view are derived from my own personal psychology, which was informed from birth by a colorful and complex family, a childhood in the harsh but beautiful Depression era, a world scarred by World War II, Viet Nam, and the ongoing conflicts of our times. As a child I lived on Canyon Road in Santa Fe, New Mexico, on the prairie south of town, and for a while at Puyé on the Pajarito Plateau, in the neighborhood of Los Alamos, the birthplace of the atomic bomb, and I became an unwitting member of the generation most affected by the psychological fallout of this strange political agenda.

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BELONGING

MERIDEL RUBENSTEIN

LOS ALAMOS TO VIETNAM



SEC CLERK RECORDED 07/25/2017

the *Albuquerque Journal*, covering events such as the New Mexico state penitentiary riots. At the same time she was introduced to Jerry R. West, a talented Santa Fe artist whom she would eventually marry, on August 28, 1982. West and his family had a profound influence on Meridel's life and career. Their relationship provided the nourishment both needed to pursue their own work without the banal restrictions and conventions of a more traditional married life. They settled into West's family ranch property in the San Marcos Valley, twenty minutes from downtown Santa Fe. There they made their separate studios, Jerry constructing building after building in what can only be described as a monument to organic architecture.



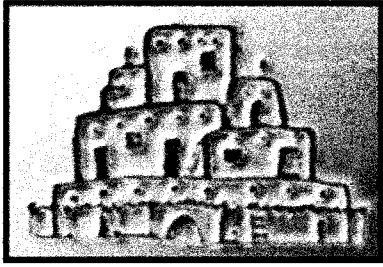
Meeting West was a catalyst for Meridel; they became a mutual support society. West's more traditional landscape paintings, influenced by Meridel's burgeoning interest in more personal and handcrafted feminist art, expanded into narrative dreamscapes fusing landscape, figurative imagery, and painted and aural poetic texts. These mythic settings are reminiscent of Hieronymous Bosch rather than the idealized landscapes so rampant in art of the southwest. West's paintings and prints inspired Meridel's evolving narrative and constructed imagery. Both fed each other's work with countless joint "field" trips to Native American dances, Hispanic fiestas, historical and cultural ruins, explorations out into the land, art pilgrimages to Walter DeMaria's *Lightning Field*, visits to New York and Los Angeles, to Mexico, Italy, France, India. West's printmaking and painting studios, and his tool shop for house building expanded what was possible for a traditional photographer in the way of materials, space, and craft. Their shared passion for New Mexico and each other's imagery permeated their artistic output. After years of being out of close contact with her own family, Meridel now felt a familial sense of belonging.

This was a heady period that was also marked by many visits from the writer and poet

Meridel LeSueur, after whom Meridel had been named. Meridel had always known that she was named for some Midwestern writer who ran a little poetry magazine, but had been

told she was dead. In fact, in 1974, photographer Frank Gohlke found LeSueur's address in Minnesota, and Meridel contacted her. A powerful and defiantly independent woman who

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THE SAN MARCOS ASSOCIATION

January 12, 2017

THE SAN MARCOS ASSOCIATION

P. O. Box 722

Cerrillos, NM 87010

In compliance with the 2016 County Land Use Management Code, representatives of the San Marcos Association, a Registered Organization (RO) were asked to attend a "pre-application" meeting on December 2016 concerning a proposed variance brought forward by Mr. Jerry West (Permit SPRA 16-484).

Walter Wait, an SMA board member, attended the 9:30 AM meeting.
The following comments were provided to the applicant:

Request for a variance

The meeting participants agreed that a variance permitting the completion of an "archive" building should be granted on the following grounds:

1. The completed building replaces an unsightly storage container that has stood on the property for many years. The storage container was not rodent proof and has caused a serious economic hardship to the resident artists - works of art damaged by rodents become unsaleable.
2. The completed building is in keeping with the character of the neighborhood and improves the visual appeal of the compound.
3. The completed building, as it is designed and partially completed, is clearly built as a storage area and could not be modified as an auxiliary residence. It could be considered as a shop, studio, or other work place or, as noted in the application, as an archive or storage place for works of art.
4. The proposed building was approved by the County in 2011 and a permit was issued. The foundation was completed at that time. Due to artistic commitments of the resident artists, completion was delayed. Work resumed in 2016, under the assumption that permitting process had been complied with. Meeting participants saw no reason for the County to reject an application for a building that a) complied with County Requirements in 2011, b) was partially completed at that time, and c) improves, rather than detracts from the neighborhood's esthetics.

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5. The structure does not bear on the issue of the property having multiple studio's with kitchen and bathroom facilities. This issue, while, germane to the 2016 County Code Zoning should have no bearing as at least one of these structures, part of an artist compound, was essentially complete prior to the 1980 County Land Use Code.
6. It would not be in the best interest of the community for the property owner to demolish the partially completed structure and replace it with an unsightly storage container - an option that does not require permitting.
7. While the property does indeed contain a primary residence and two live-in "studio's", it is felt that requiring these studio's to be compromised by eliminating their bathrooms, would both diminish the "compound's" attractiveness to the neighborhood, and create a hardship on the current artist residents.

An Alternative

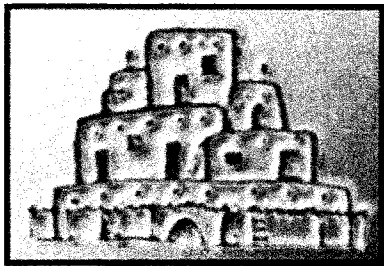
Since there are no limitations to the size of a primary residence, linking the partially completed storage building to the main residence would alleviate the County's main complaint. A new plan, submitted to the county, requesting an addition to a previously constructed residence, should be permit-able. This course of action would also resolve the current zoning setback standards, as it would not apply to an expansion of structures built prior to the new code requirements.

It is our opinion that since the structure was in fact approved in 2011, the change in plan should not constitute a violation of the County Code and should not require any punitive action by the County.

We appreciate the opportunity to review and comment on land use matters concerning the San Marcos Neighborhood and hope that our comments in this matter are useful to both you and the County Land Use Code Administrator.

Walter Wait
President
San Marcos Association

SFC CLERK RECORDED 07/25/2017



THE SAN MARCOS ASSOCIATION

June , 2017

**THE SAN MARCOS ASSOCIATION
P. O. Box 722
Cerrillos, NM 87010**

The San Marcos Association, a Registered Organization (RO) for an area of Santa Fe County that includes the San Marcos District, was asked to comment on a proposed variance brought forward by Mr. Jerry West (Permit SPHA 16-484).

After Board members attended a “pre-application” meeting in December 2016, the board drew up it’s findings and submitted them to the applicant on January 13, 2017. These are attached.

While the application concerned a variance to complete a proposed archive building, and our attentions were devoted to whether or not completion of the building was in the best interests of the community, the County was considering the larger picture of the legality of the compound itself.

While it appears to be true that the property contains multiple “working spaces” that contain both kitchens and bathrooms, these structures may have preceded the 1980 Land Use Code and might be considered “exempt”. The property has for many years been considered as an “Artist Colony”, and as offered a place for artists “in residence” to work in a low cost and nurturing environment. It has been unobtrusive and the live/work space is considered an asset to the community.

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We believe that disrupting the current state of this property will cause financial and artistic harm to its residents and shall cause significant damage to the character and “flavor” of the San Marcos District.

While the current San Marcos District Use code does not permit the creation of new “compounds” or “multi-family” dwellings, we feel that the County should make allowances for those institutions and compounds that have been with us for so many years, have been “good neighbors”, and add to our rural residential life style.

We urge the Board to grant a variance for the continued operation of this Art Colony/ compound and it’s artist-in-residence spaces and suggest that the owner define the goals of the facility, apply for a business license, and operate the property under the guise of a “home business”.

If the buildings were built illegally, or without appropriate approvals, we would urge the County to issue a variance, allow the structures to continue to serve their intended functions and, if considered appropriate, declare them “nonconforming”. No additional structures should be allowed on the property. If the applicant should be deemed to be in violation of the SDLC, or the 1980 code,(which-ever applies) an appropriate fine should be levied by the County.

Respectfully Submitted

San Marcos Association Board of Directors

Walter Wait (President)

SFC CLERK RECORDED 07/25/2017

Santa Fe County Planning Commission Board Meeting

Case # V 17-5000 Eldorado Area Water and sanitation District Variances

6/15/17 4:00 PM

Good afternoon! My name is Joe Loewy. I live at 6 Monterey Road, Santa Fe. In the interest of full disclosure, I have been an appointed Santa Fe County Commissioner for four years serving as a Board member of the County Public Housing Authority Commission.

I am here today as a ratepayer in the Eldorado Area Water and Sanitation District (EAWSD) and a volunteer, appointed member of the EAWSD Capital Planning Advisory Committee. I wish to briefly speak today in support of Case # V 17-5000 EAWSD Variances.

I built my home in 2012 in Eldorado. One of **the most significant reasons** for my wife and I to move to Eldorado was the fact that the Water District had a safe and reliable water system with sufficient wells to produce water for the approximately 7,000 residents in our area.

As a volunteer committee member of the Water District I have come to appreciate the **critical need for additional water sources**, especially in order to meet the summer peak demand. Construction of the Well 19 project is essential in order to meet this need.

The variance requests proposed are logical and preserve the health, safety and aesthetics of the community and environment. The project has been reviewed and is supported by the neighborhood association that the well is located in.

Please approve the variances requested to enable this project to move forward as quickly as possible. This well is critically needed by my neighbors, my family and the entire Eldorado community.

Thank you!

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Location of Well

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24 Aster Way
Santa Fe, NM 87508
(505) 428-0006



June 15, 2017

Santa Fe County Planning Commission
102 Grant Avenue
Sante Fa, NM 87501

Honorable Commissioners:

My name is Christina Hornig. I live with my husband Tim and daughter Emma at 24 Aster Way in La Paz, a property adjacent to the property where the Eldorado Area Water and Sanitation District (EAWSD) proposes building a facility that violates Santa Fe County's Sustainable Land Development Code (SDLC). I am here to request the Commission to deny the variances that EAWSD has requested as they are not in the public interest.

Having followed the variance process as public hearings have been scheduled, sometimes canceled or postponed, and finally held, we are familiar with the recommendation made by Land Development Analyst, Sr., John Lovato that the variances should be denied. We will address the reasons contained in Mr. Lovato's memo of April 27, 2017, as well as some additional concerns that we have.

Issues raised in Mr. Lovato's memo of April 27, 2017

- SLDC Chapter 7, Section 7.17.5.2.6
 - We concur with Mr. Lovato's assessments that ***"the structure and well should have been placed further northeast for safety concerns and Code compliance for access, FEMA designated setback requirements, and property boundary setbacks"***, and ***"The location of the structure is a safety concern due to setbacks from the FEMA designated floodplain area and site disturbance associated with the site"***.
 - We also note that, while in their communications with the County EAWSD has repeatedly discussed the choice to locate the structure and well in a location that does not impact the property owner's views, the location places the structure directly in the line of view from our portal to the Manzano mountains. We were never consulted as to the location of the well.
- SLDC Chapter 7, section 7.11.12.3.3, Table 7-15
 - We concur with Mr. Lovato's assessment that ***"Well trucks and other equipment used to fix or repair the well may impede and create safety hazards for pedestrians and other vehicles."*** and ***"The structure's access is a safety hazard for pedestrian and vehicle traffic, as the turning radius for the road intersection and radius for the driveway merge into each other. The driveway separation standards were in the 1996 Land Development Code as well as the SLDC."***
 - We also note Mr. Lovato's statement that ***"Public Works state that they cannot support the variance"***.
- SLDC Chapter 7, Section 7.3.3.7 Table 7-A (Setback Table)

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- We concur with Mr. Lovato's assessments that **"...all structures must follow the SLDC (Code) requirements for setbacks. There is ample room on the property to meet the 25' setback", "The structure and property boundary lies within the FEMA designated floodplain.", "...the Applicant should have been aware of the required setbacks...", and "...moving the structure northeast would greatly improve safety"**.
- We are attaching a picture from the FEMA website. While clearly not precise, this does show that the well site (immediately Northeast of the intersection between Torreon Road and Carissa Road) is in the FEMA designated floodplain.
- Overall recommendation
 - We concur with Mr. Lovato's recommendations to deny **"...the structure to be located within the 75' setback of a FEMA designated hazard area..."**, and to deny **"...a variance to allow the proposed water facility to be constructed within 25' from the property boundary, and the structures driveway to be within the 25' separation of an intersection"**.

Additional issue

In addition to the issues raised in Mr. Lovato's memo, we would like to address EAWSD's rationale for the well as being in the public interest, following the generally-compelling logic that increased water availability would benefit the community. The concern here is that the water that will be pumped from the proposed well contains harmful levels of antimony (above the legal limit for drinking water). While EAWSD proposes to lower the levels of antimony below the legal limit by mixing the water from this well with water from other wells, as members of the public we do not see that is in our interest to introduce poisons into our water supply, even at levels below the legally defined maximum.

Please deny the requested variances, and enforce the provisions of the SLDC as written and intended.

Thank you!



Christina Hornig

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