

SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING

January 10, 2017

Anna Hansen, Vice Chair - District 2
Henry Roybal, Chair - District 1
Robert A. Anaya - District 3
Anna Hamilton - District 4
Ed Moreno - District 5

SANTA FE COUNTY

REGULAR MEETING

BOARD OF COUNTY COMMISSIONERS

January 10, 2017

I. A. This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 2:00 p.m. by Commissioner Henry Roybal in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

B. Roll Call

Roll was called by Deputy County Clerk Vicki Trujillo and indicated the presence of a quorum as follows:

Members Present:

Commissioner Henry Roybal
Commissioner Anna Hansen
Commissioner Anna Hamilton
Commissioner Ed Moreno

Commissioner Robert Anaya [telephonically for Public Hearing: Case #APP 16-5151]

Members Excused:

None

C. Pledge of Allegiance

D. State Pledge

E. Moment of Reflection

The Pledge of Allegiance was led by Zack Scarlott, the State Pledge by Matthew Montoya and the Moment of Reflection by Stephen Serna of the Assessor's Office. Commissioner Roybal offered a moment of silence for the aunt of Commissioner Anaya.

F. Election of Board of County Commissioners Chair for 2017

COMMISSIONER HANSEN: I would like to nominate Commissioner Roybal as Chair of the Board of County Commissioners for 2017.

COMMISSIONER HAMILTON: Second.

CHAIR ROYBAL: Okay we have a motion and a second.

The motion passed by unanimous [4-0] voice vote.

I. G. Election of Board of County Commissioners Vice-Chair for 2017

CHAIR ROYBAL: Do we have a motion?

COMMISSIONER HAMILTON: Mr. Chair.

CHAIR ROYBAL: Commissioner Hamilton.

COMMISSIONER HAMILTON: I would like to make a motion for Vice Chair. In preference, I would like to say as a new Commissioner, I'm very much looking forward to working with all of you, my fellow Commissioners, in a highly productive and congenial atmosphere and one with strong communication and support. This is such a big and exciting opportunity with three new Commissioners, first to integrate ourselves into contributing positively into our Commission's diverse work load. It is in this context and with tremendous respect for the ongoing work that our previous sitting Commissioners have done that I would like to nominate Commissioner Anna Hansen to be Vice Chair of the Commission.

CHAIR ROYBAL: Okay we have a motion. I do want to say that we did receive emails and I did have some requests in the past from Commissioner Anaya to also be considered for the Vice Chair. I do believe he does have a lot of experience, the most experience that will sit on the Board for the next two years, so out of respect I would like to nominate him as well. So do we have a second to any of those motions?

COMMISSIONER MORENO: I second the motion for the appointment of Anna Hansen for Vice Chair.

CHAIR ROYBAL: Okay. And is there a second for the other? No? Okay. So we have a motion and a second.

The motion passed by unanimous [4-0] voice vote.

CHAIR ROYBAL: So I'd like to say congratulations to Commissioner Hansen and I'd also like to thank the Board for nominating me as the Chair this year. I really appreciate it and I look forward to working with each and every one of you. I think we're going to have a really productive year and we need to just focus on doing the work of our constituents and just keep in mind that we always need to listen to our constituents prior to making decisions so thank you all. I appreciate it. Did we have any other comments from the Board?

COMMISSIONER HANSEN: I would like to thank the Commission for nominating me for Vice Chair. I'm honored to serve and I look forward to working with all of you and I look forward to working with all of the constituents and staff, especially. Thank you.

CHAIR ROYBAL: Thank you, Commissioner Hansen.

H. Approval of Agenda

- 1. Amendments**
- 2. Tabled or Withdrawn Items**

KATHERINE MILLER (County Manager): Mr. Chair, I would like to

give you the amendments and withdrawn items from the agenda. We posted the original agenda on Tuesday, January 3rd and then we posted the amended agenda on January 6th at 2:34 pm. The amendments to the agenda since the original posting are on page 2 under Consent, item II. C. 2 – we added that item to the agenda for a request to use previously appropriated District 3 capital funds for the Stanley Center to equip that facility.

On page 4 of your agenda, we have under Miscellaneous Action Items, so that's III. D. 2. That item has been withdrawn, and item III. D. 5, Discussion and possible direction on annexation agreements between Santa Fe County and the City of Santa Fe, that item has been added. And on page 5 under Matters from the County Attorney, item VI. A. 5, items to be discussed in executive session item 5. Pojoaque Basin Regional Water Authority Joint Powers agreement has been added. All other items on the agenda remain the same as posted one week ago.

CHAIR ROYBAL: Okay, do we have any other amendments or any items that need to be withdrawn from the Board? Okay, seeing none, do I have a motion?

COMMISSIONER HANSEN: I move to approve the agenda with the additional amendments and the items that have been withdrawn.

COMMISSIONER HAMILTON: I'll second.

CHAIR ROYBAL: We have a motion and a second.

The motion passed by unanimous [4-0] voice vote.

I. I. Approval of Minutes

- 1. Request Approval of November 8, 2016, Regular Board of County Commissioners Meeting Minutes**
- 2. Request Approval of November 10 and 18, 2016, Canvassing Board Meeting Minutes**

CHAIR ROYBAL: Are there any corrections from the Board or from staff?

MS. MILLER: Mr. Chair, staff has no corrections.

CHAIR ROYBAL: Okay. I'll entertain a motion.

COMMISSIONER HAMILTON: I'll move that the meeting minutes be approved as they stand.

CHAIR ROYBAL: I'll second. We have a motion and a second.

The motion passed by unanimous [4-0] voice vote.

II. CONSENT AGENDA

A. Final Orders

- 1. CDRC CASE #S10-5362 Saint Francis South Preliminary Plat and Development Plan. Vegas Verdes, LLC, Applicant, JenkinsGavin Design and Development Inc. (Jennifer Jenkins), Agent, Request Preliminary Plat and Development Plan Approval for Phase 1 of the St. Francis South Mixed-Use Subdivision which Consists of Five lots on 68.94 Acres. The**

Property is Located on the Northwest Corner of Rabbit Road and St. Francis Drive, within Section 11, Township 16 North, Range 9 East, (Commission District 4) Vicente Archuleta, Case Manager (APPROVED 4-0)

B. Resolutions

- 1. Resolution No. 2017-1, a Resolution Requesting to Realign the FY2017 Budget for the 2016 Edward Byrne Justice Assistance Grant Program to the Actual Grant Amount Awarded Resulting in A Budget Decrease /-\$4,000 (Finance Department/Don Moya)**
- 2. Resolution No. 2017-2, a Resolution Requesting a Budget Increase to the Law Enforcement Operations Fund (246) / DWI Seizure Program to Budget Cash Carryover for a Term Position / \$6,583 (Finance Department/Don Moya)**
- 3. Resolution No. 2017-3, a Resolution Approving the Santa Fe County Title VI Plan and Authorizing the County Manager to Submit the Plan to the New Mexico Department of Transportation on Behalf of the County (Growth Management Department/Ray Mathew) *[Exhibit 1: Amended Documents]***

C. Miscellaneous

- 1. Request the Delegation of Authority to the County Manager to Sign an Amendment of New Mexico State Land Office (SLO) Right-of-Way (ROW) Easement No. R-35280 on Behalf of Santa Fe County (Public Works Department/Terry Lease)**
- 2. Request Authorization of the Use of District 3 Capital Funds, Per Capital Outlay Policy, Allocating \$50,000 for Capital Improvements and Equipment for the Stanley Cyclone Center Project (Finance Division/Don Moya) *[Exhibit 2: Staff Report]***

CHAIR ROYBAL: We have several items on this Consent Agenda. I'd like to get a summary from either Manager Miller or Deputy Manager Flores of the items on the agenda.

MS. MILLER: Mr. Chair, yes. We have a final order from a case that was approved last fall. That's CDRC Case #S 10-5362, St. Francis South preliminary plat and development plan. We also have two budget resolutions. One is an adjustment to the Edward Byrne justice assistance grant, a \$4,000 decrease to true up the actual grant amount with the budget amount. The second budget resolution is for a budget of cash carryover for a term position of \$6,583 in our DWI seizure program. The third resolution is a resolution approving the Santa Fe County Title VI plan and authorizing the County Manager to submit the plan to DOT on behalf of the County. And then two miscellaneous items. One is requesting delegation of authority to the County Manager to sign an amendment to the New Mexico State Land Office right-of-way easement. This is an easement we already have but we need to amend that easement with the State Land Office. And then the second item under Miscellaneous is a request to use some remaining District 3 capital funds per our capital outlay policy allocating \$50,000 of capital

improvements and equipment for the Stanley Cyclone Center. And those are all the items on Consent.

TONY FLORES (Deputy County Manager): Mr. Chair, if I can. For the item for the Title VI plan which is item II. B. 3, we left a memo on the dais that indicates some minor cleanup changes, so when we make the motion we want to make sure we put those cleanups as part of the actual plan. The resolution remains the same but the document that would go in with the resolution, those minor changes have been reflected. So I just want that included for the record.

CHAIR ROYBAL: Okay. Thank you. So do we have any questions from the Board or anything that needs to be pulled? If we do not then I would entertain a motion.

COMMISSIONER HAMILTON: Yes, I would like to move that the Consent Agenda be taken as it is and approved.

CHAIR ROYBAL: I'll second.

The motion passed by unanimous [4-0] voice vote.

[Deputy Clerk Trujillo provided the numbers for the approved resolutions throughout the meeting.]

III. ACTION ITEMS

B. Appointments/Reappointments/Resignations

- 1. Appointment of County Commissioners and Staff to Boards or Committees of the Following Entities: Buckman Direct Diversion, Santa Fe Metropolitan Planning Organization, North Central New Mexico Economic Development District, North Central Regional Transit District, Regional Coalition of LANL Communities, Santa Fe Solid Waste Management Agency, Santa Fe County Investment Committee, Santa Fe County Internal Audit Committee, the Estancia Valley Economic Development Association, and the New Mexico Association of Counties Multiline and Worker's Compensation Pool Boards**

MR. FLORES: Thank you, Mr. Chair. On an annual basis the Board appoints Commissioners and/or staff members to various boards and committees that represent Santa Fe County. These boards and committees are policy boards and that's why it's important to look at the Commissioners for each of these boards. What I'd like to do, Mr. Chair, is go through each of the boards on an individual basis, give a quick overview of what the board is, how many primary members that board is looking for from appointment from the Commission, how many alternate members, and then also if there's staff that's included I would bring those up to you as well.

Mr. Flores outlined the functions of the various boards and committees and the appointments were agreed upon as follows:

Buckman Direct Diversion (BDD): Primary Members – Commissioner Roybal and Commissioner Hamilton; Alternate Member – Commissioner Hansen

Metropolitan Planning Organization (MPO): Primary Members – Commissioner Anaya, Commissioner Hansen and Commissioner Moreno; Alternate Member – Commissioner Roybal

North Central New Mexico Economic Development District (NCNMEDD): Primary Member – Commissioner Hansen; Alternate Members – Commissioner Moreno and Commissioner Hamilton

North Central Regional Transit Authority (NCRTD): Primary Member – Commissioner Moreno; Alternate Member – Commissioner Hansen

Regional Coalition of LANL Communities: Primary Member – Commissioner Roybal; Alternate Member – Commissioner Anaya

Solid Waste Management Authority (SWMA): Primary Members – Commissioner Moreno, Commissioner Hansen and Commissioner Hamilton; Alternate Member – Commissioner Roybal

Santa Fe County Investment Committee: Primary Members – Commissioner Roybal and Commissioner Hansen (Commission Chair and Vice Chair); Alternate Member – Commissioner Hamilton

Santa Fe County Internal Audit Committee: Primary Members – Commissioner Hamilton and Commissioner Hansen

Estancia Valley Economic Development Association (EVEDA): Primary Member – Commissioner Anaya

New Mexico Association of Counties Multiline Board: Primary Member – Manager Miller; Alternate Member – Commissioner Moreno

New Mexico Association of Counties Workers' Compensation Pool: Primary Member – Commissioner Anaya; Alternate Member – Commissioner Moreno

MR. FLORES: Mr. Chair, I'd ask for a motion and a second to approve those committee appointments.

CHAIR ROYBAL: Okay, I would entertain a motion.

COMMISSIONER HAMILTON: I would move that the committee appointments be accepted as read.

CHAIR ROYBAL: I'll second.

The motion passed by unanimous [4-0] voice vote.

III. B. 2. Appointment of Santa Fe County's Representative to the City of Santa Fe's Film Commission

MR. FLORES: Thank you, Mr. Chair. As the Board is becoming knowledgeable in the different boards and committees that the City of Santa Fe has they have also extended opportunities for the Board to appoint representation of County members on those committees. The first one that you'll be considering today is the Santa Fe Film Commission, which was established last year. It would provide sustain and support for economic development and job creation in digital and film media. They have a list of items that the commission really looks at and I've included that in the memo. The most important part is the membership of the resolution or the commission provides that the County of Santa Fe provide one member, as appointed by the Board to sit on the Film Commission.

Las year we took up a nomination. Ms. Susan Fiore was the representative for Santa Fe County based upon her experience in the digital, film and media industry. Unfortunately she wasn't able to complete that and she resigned from that commission which left the County the opportunity to appoint a new member. In consultation with the Film Commission and our regional film office director we're bringing forward a recommendation of Mr. Lee David Zlotoff as the Santa Fe County representative to the City of Santa Fe's Film Commission. And with that, Mr. Chair, I'll stand for questions.

CHAIR ROYBAL: Okay, do we have questions? Commissioner Hansen.

COMMISSIONER HANSEN: I would just like to nominate Lee David Zlotoff as a member to the Film Commission.

COMMISSIONER MORENO: Second.

CHAIR ROYBAL: We have a motion and a second.

The motion passed by unanimous [4-0] voice vote.

III. B. 3. Re-Appointment of One Member to the Santa Fe County Ethics Board

MR. FLORES: Thank you, Mr. Chair. The Ethics Board for Santa Fe County consists of five community members that are appointed by the Board of County Commissioners and they serve a two-year term. All those positions on the Ethics Board are at-large. In layman's terms, in my terms, that means they are not appointed by a Commission district and the ethics ordinance purposely sets that up. We have two vacancies due to a term expiration of Mr. Peyton George and Ms. Carol Thompson. When the lay committees or boards have vacancies, and you'll see this over the next couple of meetings, we do a call for interested individuals, whether they be by Commission district, by category in some cases – whatever the criteria is from the Board – and then staff vets those, goes through those and makes sure that they have the required paperwork, the background checks, and that they meet the criteria of that specific committee or board.

We received an application from one of these two members, from Ms. Carol

Thompson. She is seeking re-appointment to the Ethics Board. She served in that capacity and then her term expired and staff is recommending that today we re-appoint Ms. Carol Thompson to the Santa Fe County Ethics Board. And with that, Mr. Chair, I'll stand for questions.

CHAIR ROYBAL: Questions of the Board? Commissioner Hansen.

COMMISSIONER HANSEN: I'm wondering if once we get this board back up and operating at full capacity that we could take a look at the ethics ordinance. I feel that there was some confusion early on during – when I was running for office about campaign issues and I would like to have the Ethics Board look at that. Is this a proper time to bring that up.

MR. FLORES: Mr. Chair, Commissioner Hansen, we had that discussion so thank you for reminding me of it. For a small bit of background, the Ethics Board actually was charged two years ago to take a relook at our ethics ordinance. Because of timing of other commitments of the Board, the SLDC and the zoning map that was never completely acted upon. So there is a movement from a couple of years ago where the actual Ethics Board takes a look at the Ethics Board and then brings forward recommendations to the Board. So what we can do is once this appointment is made – we still have one additional vacancy that we'll be bringing forward at the 31st meeting at the end of this month, and then the Board of County Commissioners will have a full complement of Ethics Board members and we can work with them on a work plan that would include the relook, if you will, of the ordinance. So thank you for that reminder.

COMMISSIONER HANSEN: That would be wonderful, Mr. Flores. With that, I would like to make a recommendation to appoint Carol Thompson to the Ethics Board.

CHAIR ROYBAL: I would second that and I'd also like to thank Commissioner Hansen for bringing that point up. So we have a motion and a second.

The motion passed by unanimous [4-0] voice vote.

III. B. 4. Appointment of Santa Fe County Representatives to the Regional Economic Development Initiative Broadband Network Board (REDI Net Board)

MR. FLORES: Thank you, Mr. Chair. The memo outlines what REDI Net is, who the fiscal agent was – and they're going through some fiscal changes right now, but REDI Net was set up as a partnership between various entities in Santa Fe County, Los Alamos County, the City of Espanola, Rio Arriba County, the Pueblos of San Ildefonso, Okey Owingeh, Santa Clara, Pojoaque, and Tesuque. That committee is still in existence. That board is still moving forward and the board was originally established as a result of a federal grant to get some of those middle mile or last mile projects in place.

Mr. David Griscom was the County's representative to that board through Economic Development. The Board, at the time that that appointment was made felt that that was a good synergy between the economic development plan for Santa Fe County and Mr. Griscom to make sure there was connectivity between staff and the board. Mr. Griscom, as we know, has left to bigger and better things and left a vacancy within the

REDI Net board for Santa Fe County.

After reviewing the criteria that's established in the JPA I'm recommending we appoint Mr. Chris Hyer, who's our economic development manager, and Mr. Rudy Garcia as the alternate for that board to ensure that Santa Fe County has staff representation at that board and that also that the staff I'm recommending is capable of bringing those informational items back to the full Board. So with that, Mr. Chair, we're recommending Mr. Chris Hyer as the primary, Mr. Rudy Garcia as the alternate member for REDI Net. I stand for questions.

COMMISSIONER HANSEN: I have a question.

CHAIR ROYBAL: Go ahead, Commissioner Hansen.

COMMISSIONER HANSEN: With this board, do they interact also with the North Central New Mexico Economic District?

MR. FLORES: Mr. Chair, Commissioner Hansen, yes. That district is or was the fiscal agent. That fiscal agent responsibility has been moved to Rio Arriba County. So North Central was the fiscal agent for them and they do interact on it but that oversight has been changed to Rio Arriba County.

COMMISSIONER HANSEN: Okay. So that board still interacts with the broadband.

MR. FLORES: That's correct, Mr. Chair, Commissioner Hansen.

COMMISSIONER HANSEN: Okay.

CHAIR ROYBAL: Commissioner Moreno.

COMMISSIONER MORENO: I've known Chris Hyer for about 20 years. We worked at the State Land Office together and I wholeheartedly endorse this appointment.

COMMISSIONER HANSEN: And I wholeheartedly endorse Rudy Garcia as the alternate. So moved.

CHAIR ROYBAL: So there's a motion. Is that correct?

COMMISSIONER MORENO: Yes.

CHAIR ROYBAL: And a second?

COMMISSIONER HANSEN: And a second.

CHAIR ROYBAL: Okay, so we have a motion and a second.

The motion passed by unanimous [4-0] voice vote.

III. B. 5. Appointment/ Reappointment of Three Members to the County Open Lands, Trails and Parks Advisory Committee (COLTPAC)

MARIA LOHMAN (Open Space and Trails Planner): Mr. Chair, I'm the staff liaison for the County's Open Land, Trails and Parks Advisory Committee, or COLTPAC. There are currently three vacant positions on COLTPAC. These terms expired on December 31, 2016. One position is for District 4 and there are two at-large positions. I received eight applications for these positions which were advertised through email lists and on the County website. You'll see in your memo a breakdown of all the applications received.

Staff recommends reappointment of Dave Dannenberg for District 4. Mr. Dannenberg has served on COLTPAC since 2014 and as COLTPAC chair for the last two years. He is familiar with County open space priorities and properties and has served as great leader on the committee. Staff also recommends the appointment of Linda Siegle and Jean Pike for the at-large committee members. Ms. Siegle has a long history of participation in the Santa Fe County open space program, including at Cerrillos Hills, Ortiz Mountains and Thornton Ranch open space. Ms. Pike is a volunteer as a site steward with New Mexico Site Watch and has particular interest in the Galisteo Basin as well as other cultural properties in the county. And with that I will stand for questions.

CHAIR ROYBAL: Okay, do we have questions of the Board?
Commissioner Hansen.

COMMISSIONER HANSEN: I move to approve the three nominees for the COLTPAC board that staff recommends – David Dannenberg, Linda Siegle and Jean Pike.

COMMISSIONER HAMILTON: I'd second that.

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

The motion passed by unanimous [4-0] voice vote.

III. B. 6. Appointment of Resident Member to the Santa Fe County Housing Authority Board

JOSEPH MONTOYA (Housing Director): Mr. Chair, members of the Board, thank you very much for allowing me to speak in front of you today. As you know, one of the many responsibilities you have is to sit on the Santa Fe County Housing Authority Board. The Authority Board actually has two extra members. One of the members is a committee member at large and the other member is a resident council member. Staff is recommending that we re-appoint Catherine Hurtado as a resident council member. She's done an extremely good job during her period of time there. She's our master volunteer and we hope that you give her consideration. Thank you. I also have Cathy here if you wish to ask any questions of her.

CHAIR ROYBAL: Questions from the Board? No questions? Okay, I'd entertain a motion.

COMMISSIONER MORENO: I move the appointment.

CHAIR ROYBAL: I'll second. So we have a motion and a second.

The motion passed by unanimous [4-0] voice vote.

III. B. 7. Appointment of Four Members to the Santa Fe County Planning Commission from Commission Districts 1, 3, 4 and 5

VICKI LUCERO (Building & Development Services Manager): Thank you, Mr. Chair. The Sustainable Land Development Code gives the BCC the authority to appoint members of the Planning Commission. The Planning Commission consists of seven members. Members shall be registered voters and one member shall reside in each

of the Commission districts. The remaining members shall be at large and may reside in any area of the county.

Terms of the members of the Planning Commission are for two years. Currently terms of four of the current Planning Commission members are expiring now in January. These members represent 1, 3, 4, and 5. The current Planning Commission members from each of these districts have requested re-appointment as follows: Leroy Lopez from District 1, Filandro "Phil" Anaya from District 3, Frank Katz, District 4, and Renae Gray, District 5.

In early December the County sent out a press release seeking interested members of the general public to serve on the Planning Commission. In addition to the current Planning Commission members we have received letters from four other constituents who are interested in serving on the Planning Commission and those are as follows: Steve Carson in District 1, Stephanie LeMaster for District 3, Paul Dillon, District 5, and Fred Raznick in District 5. All applicants' letters of interest and résumés are included in the packet in Exhibit B.

Staff recommends appointment of the following members to serve on the Planning Commission: Leroy Lopez for District 1 – two-year term expiring in January of 2019; Phil Anaya, District 3 – two-year term expiring in January 2019; Frank Katz, District 4 – two-year term expiring in 2019; and Renae Gray for District 5, also a two-year term expiring in January 2019. Thank you, Mr. Chair. I stand for any questions.

CHAIR ROYBAL: Questions from the Board? Okay, what's the pleasure of the Board?

COMMISSIONER MORENO: I would move the appointment of all of the members. Can I do that in one fell swoop?

CHAIR ROYBAL: Yes, you can, and I'll second. Okay, we have a motion for approval and a second.

The motion passed by unanimous [4-0] voice vote.

III. C. Resolutions

1. Resolution No. 2017-4, a Resolution for Delegation of Authority to the County Manager to Acquire Real Property Interests Necessary for Construction of a Drainage Improvement Project on County Roads 89 and 89C

TERRY LEASE (Public Works): Thank you, Mr. Chair. County Road 89 and 89C have been experiencing severe drainage problems the last couple of years. A prior board has authorized improvements to those roads to help remediate the damage caused by flooding. The design has been completed. They've identified six properties that we need to obtain easements in order to construct those improvements and I'll stand for questions.

CHAIR ROYBAL: Okay, do we have any questions from the Board?

COMMISSIONER HAMILTON: No questions. It was pretty clear.

CHAIR ROYBAL: Okay, is there a motion.

COMMISSIONER MORENO: I make the motion to approve the

acquisition.

CHAIR ROYBAL: I'll second. So we have a motion and a second.

The motion passed by unanimous [4-0] voice vote.

III. C. 2. Resolution No. 2017-5, a Resolution Delegating Authority to the County Manager to Negotiate and Execute all Documents Necessary for the Acquisition of the Bennie J. Chavez Community Center

CHAIR ROYBAL: I have to say this is something that we've been working on for a while and I'm really glad to see that we're moving forward in acquiring this property so that we can do some renovations to it. And this will be presented by Terry Lease as well.

MR. LEASE: Again, thank you, Mr. Chair. The Bennie J. Chavez Center is owned by the Espanola School District, also known as the Chimayo Senior Center. The County has leased that property since 1979 and made significant improvements throughout the years. The lease agreement provides that if the County were to no longer lease that property the Espanola School District would compensate the County for the improvements they've made over the years. Likewise, in the interest of purchasing the property, both parties recognize the County's contribution and the improvements, thus allowing for the County to purchase that property and really be in effect credited for the improvements they've made over the years, and as a result, the purchase price of up to \$150,000 represents a purchase price well below the appraised value. It was appraised in 2014.

The Espanola School District, as well as the Espanola School Board are supportive of that purchase price as well. So with that, we stand for questions.

CHAIR ROYBAL: Do we have any questions from the Board?
Commissioner Hansen.

COMMISSIONER HANSEN: I would just like to make a motion. I would like to move to approve the purchase of the Bennie Chavez Center in the northern part of Santa Fe County.

CHAIR ROYBAL: Okay, thank you for that motion, Commissioner Hansen, and I would like to second that motion.

The motion passed by unanimous [4-0] voice vote.

III. D. 3. Resolution No. 2017-6, a Resolution Requesting the Establishment of an Internal Service Fund (601) for the Santa Fe County Self-Funded Benefit Program and Requesting an Increase to the Fund (601) of \$4,002,000 to Budget Revenue Received from Employer and Employee Contributions for the Santa Fe County Self-Funded Benefit Program / \$4,002,000

DON MOYA (Interim Finance Director): Thank you, Mr. Chair, members

of the Commission. What you have before you is exactly what you described, a resolution to establish a fund that will allow us to operate the County's new self-funded insurance program. This \$4 million represents about six months of proceeds from both employer and employee contributions. Per statute and regulation, we have to establish a separate fund for the contributions of employer and employees. It's essentially where we will be paying the claims to the providers for all of the employees who participate in the new self-funded health plan. We recommend approval of the resolution, establishment of the fund, and the budget of \$4 million. And I stand for questions. Thank you.

CHAIR ROYBAL: Any questions from the Board? Seeing none, I'd like to move for approval.

COMMISSIONER HAMILTON: I will second.

CHAIR ROYBAL: We have a motion and a second.

The motion passed by unanimous [4-0] voice vote.

III. C. 4. Resolution No. 2017-7, a Resolution Requesting a Budget Increase to the Fire Operations Fund (244) to Budget New Funding for Multiple Grants for the County Fire Department/ \$832,961

MR. MOYA: Thank you, Mr. Chair. This is an FY 2017 grant to the County's Fire Department of \$832,961. As you will see in the packet it is specific to each fire district and there is a plan in place for how this money will be spent. We recommend approval of the \$832,000 increase. And I stand for questions.

CHAIR ROYBAL: Questions of the Board? Okay, I'll entertain a motion.

COMMISSIONER HAMILTON: I'd like to move that this resolution be adopted.

CHAIR ROYBAL: I'll second.

The motion passed by unanimous [4-0] voice vote.

III. C. 5. Resolution No. 2017-8, a Resolution Requesting a Budget Increase to the Fire Protection Fund (209) to Budget the Available FY-2016 Carryover for the Santa Fe County Fire Districts / \$5,445,792

MR. MOYA: Thank you, Mr. Chair, members of the Commission. This resolution represents the culmination or coalescence of quite the undertaking in terms of reconciliation between Finance and Fire. Kudos go to Erika Lovato who really spearheaded a lot of this, but we're carrying over quite a few years, actually. Once the reconciliation was done, \$5.4 million, we have met with the State Fire Marshal. We have a plan for expending the funds with a time limit. All of the money is very specific with respect to each fire district and how it will be spent. We recommend approval of the \$5.4 million, Mr. Chair and Commission, and I stand for questions.

CHAIR ROYBAL: Okay, I don't have any questions but I would like to

move for approval. With that being said, I'd also like to see if any of my fellow Commissioners have any questions.

COMMISSIONER HAMILTON: I just have a comment commending the County staff for doing this reconciliation and making the ability to utilize these funds appropriately possible. It's very needed and very well done. Thank you. And I'd like to second your motion.

CHAIR ROYBAL: Okay, do we have any other comments from the Commission? Okay, we have a motion and a second.

The motion passed by unanimous [4-0] voice vote.

III. D. Miscellaneous

- 1. Approval of Amendment No. 1 to Lease Agreement No. 2017-0211-HHS-KE Between Santa Fe County and La Familia Medical Center, Inc., as Required Prior to La Familia Medical Center, Inc. Accepting a Federal Grant for Improvements to the County Owned Building at 2145 Caja del Oro Grant Road**

MR. LEASE: Mr. Chair, Commissioners, La Familia has occupied a County-owned building on County property since about the year 2000. La Familia is a non-profit that provides medical and dental services to families regardless of their ability to pay. In May of 2015 a prior Commission signed a conditional letter of consent that allowed La Familia to pursue a grant for the expansion of that building, and on April 26, 2016 they approved that grant.

The next steps require the County and La Familia to work together to accomplish three things. First of all an unconditional letter of consent which the prior Commission approved, I think it was last month. Secondly is to amend the current agreement to allow for some protective language for the grant as far as the use of the funds of the grant. And the third item will come at the end of the month which is a notice of federal interest.

So the amendment has been approved by County Legal here. It took a little while to get through La Familia and approval by their board and so they are here before you here today. I'll stand for questions.

CHAIR ROYBAL: Do we have any questions from the Board?

COMMISSIONER HANSEN: Yes, Mr. Chair.

CHAIR ROYBAL: Commissioner Hansen.

COMMISSIONER HANSEN: What kind of expansion are they going to be doing?

MR. LEASE: The current building is approximately a little over 7,000 square feet. This will add an additional 4,000 square feet of again, medical and dental type facilities to be able to expand their operation.

COMMISSIONER HANSEN: Okay. This being in my district I am very supportive of this and Agua Fria being in need of care I'm very happy to hear of this grant. Thank you.

COMMISSIONER HAMILTON: Mr. Chair.

CHAIR ROYBAL: Commissioner Hamilton.

COMMISSIONER HAMILTON: Just to mention, it took quite a while for their board to approve this. Were there sticking points that raised any concerns that the County still has?

MR. LEASE: Mr. Chair, Commissioner Hamilton, no, to my knowledge it was just more of a timing issue. By the time I processed it on this side and got to La Familia we had to wait for their board which met at, I think the third week in December, approximately.

COMMISSIONER HAMILTON: Thank you.

COMMISSIONER HANSEN: I move for approval.

COMMISSIONER HAMILTON: I'll second.

CHAIR ROYBAL: We have a motion and a second.

The motion passed by unanimous [4-0] voice vote.

III. D. 2. **WITHDRAWN:** Approval of Amendment No. 2 to Professional Service Agreement No. 2015-0188-CSD/MM Between Santa Fe County and Presbyterian Medical Services

III. D. 3. **Approval of Amendment No. 2 to Agreement No. 2015-0063-CORR/IC Between Santa Fe County and Keefe Group for Commissary Services at the Adult Detention Facility and the Youth Development Program**

BILL TAYLOR (Purchasing Director): Thank you, Mr. Chair, Commissioners. Purchasing Division, along with Corrections, issued a request for proposal in September of 2014. We're now in our second year of our contract and agreement and this is amendment 2 to extend the contract for an additional year. With that I'll stand for any questions, Mr. Chair.

CHAIR ROYBAL: Do we have any questions from the Board?

COMMISSIONER MORENO: I would have a question. Have there been any significant problems in the delivery of the services?

MR. TAYLOR: Mr. Chair and Commissioner Moreno, not really. There are – the contract allows for some optional kiosk opportunities that we will tie into as we move forward with the jail management system but other than that the contractor has provided significant services and operations of a commissary. There haven't been any issues that I'm aware of. There may be some comments I'm sure if anyone from Corrections has any comments with regard but as far as we know there has not been anything brought to our attention.

CHAIR ROYBAL: Do we have any additional questions? Okay, I'll entertain a motion.

COMMISSIONER MORENO: I move approval of this.

COMMISSIONER HAMILTON: I'll second.

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

The motion passed by unanimous [4-0] voice vote.

SFC CLERK RECORDED 02/22/2017

III. D. 4. Approval of Amendment No. 2 to Agreement No. 2015-0353-CORR/TRV Between Santa Fe County and Diamond Pharmacy Services to Increase Compensation in the Amount of \$165,000, Inclusive of NM GRT, for Pharmaceutical Supplies and Services for the Corrections Department and Grant of Authority to the County Manager to Sign the Purchase Order

MR. TAYLOR: Thank you, Mr. Chair, Commissioners. Again, Purchasing issued a request for proposal for pharmaceutical supplies for the inmates at the County jail. We're now in our second year with this contract with Diamond Pharmacy. This extends it for an additional year and adds the compensation of \$165,000 to the contract total. With that I'll stand for any questions, Mr. Chair.

CHAIR ROYBAL: Okay, do we have questions from the Board?
Commissioner Hamilton.

COMMISSIONER HAMILTON: Just a pretty straightforward question. The additional budget is to cover the additional year, as opposed to a change in services?

MR. TAYLOR: Mr. Chair, Commissioner Hamilton, that's correct. It's to cover – it's in the budget to cover the cost of those services. No additional services have been added to this amendment.

COMMISSIONER HAMILTON: Thank you.

CHAIR ROYBAL: Any other questions from the Board? Seeing none, I'd like to move for approval and hope for a second.

COMMISSIONER MORENO: Second.

CHAIR ROYBAL: We have a motion and a second.

The motion passed by unanimous [4-0] voice vote.

III. D. 5. Discussion and Possible Direction to Staff on Annexation Agreements between Santa Fe County and the City of Santa Fe

CHAIR ROYBAL: This is an added item I believe by Commissioner Hansen.

COMMISSIONER HANSEN: Yes, that is correct. I wish to present a motion. I move to direct staff to negotiate with the City of Santa Fe to remove the remainder of Area 1 from the area to be annexed by the City, including agreements concerning water and wastewater services in Area 1, to make definite the County's financial responsibility, if any, for drainage improvements to West Alameda Road and to address fire and EMS services in Area 2, 4 and 18, and any other outstanding annexation issues.

MS. MILLER: Mr. Chair, if somebody'd like to second the motion I can give you a little background of what this is about.

COMMISSIONER MORENO: Second.

CHAIR ROYBAL: Okay, well, we have a motion and a second. Manager Miller.

MS. MILLER: Back in 2008 or so, 2008 or 2009, the City and County of Santa Fe agreed to a three-phase annexation plan where the City would in Phase 1 annex kind of what I'll call donut holes within the existing boundaries of the city limits in Phase 1. And then in Phase 2 which was executive I believe a year and half ago, was to annex portions around Ranch Viejo kind of south of I-25 in between Rancho Viejo, I-25, Airport Road and then up to Agua Fria Village.

And essentially what the agreements were aimed at doing was to get all of the area between 599 and I-25 and the mountain range to be the city limits and then outside of those areas, except for the airport and the sewer treatment plant, where those are, that that would be the county. During the timeframe that these discussions were going on between the City and County the Village of Agua Fria went to the state legislature and actually had the village exempted from an ability to be annexed at all as a traditional community village. So that area of Agua Fria can never be annexed based on existing state statutes.

So that area got excluded from the discussion. Another area which we call Area 18, which was the area off of Artists Road and Hyde Park Road, that was going to be annexed but when we in 2011, 2012, when we had discussions with the City it was agreed to take that portion out of annexation. And that was going to be in Phase 3.

And then the final area that was going to be in Phase 3 in 2018 is an area that we call Area 1 or the remainder of Area 1, which is the area that Commissioner Hansen is referring to in her motion, and that is an area to the east of Agua Fria Village, to the south of 599, to the north of West Alameda and to the west of Calle Nopal. So it's a little section that's adjacent to Agua Fria Village. This area was an area that the City had some reservations about annexing immediately due to the type of services that are currently provided in that area for fire protection. There aren't fire hydrants and what not so our Fire Department is typically the one that responds better and would probably continue even if it were annexed.

Currently the City does provide the land use and zoning for that area, so there are some things we would need to do and negotiate and work through with the City of Santa Fe if that area were not to be annexed. But I have made contact with the City Manager to see if they would be willing to work with us on this issue, and they are, so if the Board were to approve Commissioner Hansen's motion, City staff and County staff would work at going back, revisiting the annexation agreements that we have, which is the one that this section is the last piece to be annexed in about a year and a half. There's a road annexation agreement and then there's fire and police services and we'd go back, revisit each one of those agreements and see what would need to be negotiated and changed in order to remove that section from the annexation agreements. And so we would be willing to do that and work on that if the Board approved this motion and we would bring that back as soon as we can get agreement with the City staff.

COMMISSIONER HAMILTON: Mr. Chair.

CHAIR ROYBAL: Commissioner Hamilton.

COMMISSIONER HAMILTON: So just for clarity, this motion is to ask County staff to do the work to address these issues? Thank you.

CHAIR ROYBAL: So we do have a motion and a second.

The motion passed by unanimous [4-0] voice vote.

IV. MATTERS OF PUBLIC CONCERN

CHAIR ROYBAL: Is there anybody here from the public that would like to address the Commission today? Okay, I'd ask again if there's anybody from the public that would like to address the Commission today? Okay, seeing none, I would close Matters of Public Concern.

V. MATTERS FROM THE COUNTY MANAGER

A. Miscellaneous Updates

MS. MILLER: Yes, Mr. Chair, I have a few items for updates. As you know, the 53rd session of the New Mexico Legislature is scheduled to open next week so right now there's a few deadlines that the legislature is tending to. First of all, January 13th is the deadline for prefiled legislation. January 17th at noon is the opening of the legislative session. February 13th at 5:00 pm is the deadline for capital outlay requests. We do put our capital outlay requests – we put our ICIP together in September or August and approve in September and we do provide the delegation our top five priorities based upon that, but we can also add requests, if you have requests but they do need to be in our ICIP.

Then February 16th is the deadline for introduction of legislation, and then March 18th at 12:00 pm is the end of the legislative session. And then from that point, April 7th is the last date to have legislation acted upon by the governor. Anything that is not signed by the governor or vetoed by the governor is a pocket veto, and then June 16th is the effective date of any legislation that does not have an emergency clause or is not a general appropriation bill with a separate date.

So those are just some of the dates to keep in mind for the legislature. We have a lobbying team that does spend a great deal of time with the Association of Counties and their lobbying efforts for legislation that affects counties statewide, and then also we stay up on any legislation that's introduced that would affect Santa Fe County there, directly or indirectly. At every Board meeting we'll bring forward an update of what legislation has been introduced that you should be aware of that we're watching and tracking.

In addition, if you have legislation that you would like us to follow or you would like the County to take a formal position on legislation we provide an opportunity at the meetings for you to make a motion to have the Board vote on a position on different pieces of legislation. So we'll be providing you with regular updates throughout the session, letting you know what's coming forward and then also asking for any motions that you might like or resolutions that you might like to pass that would create a formal position for County staff to lobby for or against particular pieces of legislation. Any questions on the legislature?

CHAIR ROYBAL: No. I just have a comment myself, just thank you for those updates. But I do want to defer to my colleagues and see if they do have questions. Any other questions from the Commission?

COMMISSIONER HANSEN: Could we have a list of all of the priorities for capital outlay so that we can follow them? And also I would like to know when and if you would like any of us to show up at the Capitol for certain bills that are being brought forward on the County's behalf.

MS. MILLER: Mr. Chair, Commissioner Hansen, we will definitely do that. We'll get you the list of the capital outlay priorities that we provided the legislators to date. We'll also get you a list of all the resolutions that we have passed in the previous year that the County Commission has said they support or oppose legislation, general policy statements. Because we did go through a process of adopting the Association of Counties policy resolution, so we'll get you a list of those and any others that the Board has passed.

In addition, we do send out updates whenever there is – and we work really closely with the Association of Counties on this – whenever there is a committee hearing where they would like counties to be present and speak up on behalf of the piece of legislation or opposing a piece of legislation. And we'll give you also talking points for any of those hearings if you want to be present at those. Additionally, the Association of Counties does their meetings and updates and stuff and we can let you know when they have those meetings, because they do allow other members to attend even if you're not on the Association of Counties board you can attend and listen to the discussions on proposed legislation throughout the legislative session.

CHAIR ROYBAL: Okay. Any other questions from the Board? Great question. Thank you, Commissioner Hansen. I don't have any other questions but just once again, thank you, Manager Miller for that update.

MS. MILLER: Mr. Chair, I have other things. Then also we have – the Association of Counties has their legislative conference starting next week. It's scheduled for January 17th through the 19th at the Santa Fe Convention Center, the Eldorado Hotel and the Drury. I believe that all of you have signed up for that. As soon as they have registration I would suggest that you have your liaison or one of the office staff members go over and get your registration. They do give you an agenda. It tells you what the Commissioners affiliate will be doing as well as all of the kind of general and open sessions.

The way that that conference is structured is that they break it down by the different affiliates, so there's a managers' affiliate, there's a commissioners' affiliate, there's finance and purchasing affiliate. So they're broken down by groups. Typically, they try to put discussion items in each session that are pertinent to you in your positions, and then they also will frequently combine sessions, say, with the detention affiliate and the Commissioners' and the managers' and the attorneys' affiliates if they are major issues that they feel that all of those individuals in the county need to be involved.

So I would suggest looking through that program, looking for – my guess is they will have the commissioners' affiliate meetings either at the Eldorado or the convention center. They typically have those close by to the County building. Also they have a luncheon. The closing luncheon is on Thursday. I highly recommend that you attend that

if you can because Santa Fe County will be receiving some honors at the luncheon and I'm really proud of the staff that did work to receive those.

Also, there is a symposium on behavioral health, particularly behavioral health and how it relates to counties and what our role is in behavioral health, and that is on Wednesday morning. It's kind of a pre-conference symposium. I believe it's from 8:30 to 11:30 over at the convention center. So all that will be in your registration packet but I just want to give you kind of a heads-up of what to expect.

Also, I think some of you have signed up for some EDGE classes on Monday and Tuesday. Monday is a holiday but County staff are encouraged to attend those so we do have quite a few of the County staff attending classes on Monday and Tuesday and if there are any classes that are available that you would like to attend we could also sign you up for those. I know some of you have already signed up for some but you're welcome to attend and what we'll do is we can help you get registered for them if you would like to attend them. If they're not full they'll go ahead and enroll you in them right away. If they are full they create a waiting list and you can just show up and try to get in. If they have room they'll let you in.

The classes are like \$50 apiece. If you don't attend, we don't pay, so it's not a problem if you sign up and you're unable to attend. NMSU works with us on all of those type of classes. I highly recommend taking them if you can. They're really helpful. They're kind of general knowledge classes but they're very helpful and a lot of County staff do attend those.

Also, the Chair will be providing some opening comments at the conference and the attendees on January 17th and also on the 19th at the closing. And like I said, we will be receiving some awards so it would be great if you can attend the luncheon on Thursday. I think that's all for the conference. They do this conference every year, just so you know. It's the Association of Counties mid-winter conference and it's always in Santa Fe right before or right during the opening of the session. Then they have an annual conference that they do in June somewhere around the state that one of the other counties hosts. So those are their two main association meetings that I think that the Commission would like to attend. They're well attended across the state.

The third item I had was the Commission organization and operations boot camp. As we had talked about previously. At the beginning of the year when we have new Commissioners coming in we do try to have a boot camp or orientation to cover those items that maybe you haven't had a chance to – I know that most of you have been attending our meetings so you're pretty familiar with how the BCC meetings run and some of the other committee meetings, but for some of the internal workings we try to do a boot camp where you have an opportunity to just get an overview of the internal structure of the County, meet the different directors, the elected officials, understand what each office does, what each department does, what's in it, kind of their overall budget and those type of things.

We were hoping to have that meeting – we had actually hoped to have it earlier but there's just a lot going on so we're kind of looking at Thursday, February 2nd, that morning. I think the only thing is there is – I don't know if it's SWMA or BDD, one of the other board meetings later in that afternoon, but if that date works for you we would target having it Thursday, February 2nd, probably starting about 8:30. Maybe we'd do a

little continental breakfast at 8:00 then start the meeting 8:30 and go through to lunch. And if there's a request for quite a few things, we could even resume after a lunch break, or we could work straight through lunch.

But if that date works then what I would like to do is work with you on other things that you might like to see on the agenda.

CHAIR ROYBAL: Okay. Was that it?

MS. MILLER: I have one other thing but I just wanted feedback on those dates?

CHAIR ROYBAL: Is there any feedback on those items?

COMMISSIONER HANSEN: The 2nd would work for me but I think it is the BDD that meets –

MS. MILLER: That afternoon.

COMMISSIONER HANSEN: But that's not until 4:15.

MS. MILLER: Okay. So we thought in the morning, if that would work.

COMMISSIONER HAMILTON: That works for me up until the BDD meeting, so that's almost all day.

MS. MILLER: And we can work on the time too. One of the things that I was going to try to do is put together a draft agenda, see what you think of the draft agenda, if it covers most of what you want we can kind of adjust the time. Maybe we go from 10:00 to 2:00 with a lunch break or something like that or 10:00 to 3:00 with a lunch break. I was just trying to make it on a date you didn't have to come in separate, if we could do it all on one day.

COMMISSIONER HAMILTON: Does boot camp include push-ups?

MS. MILLER: We do have stretching at lunch to keep you awake. I'm not sure who called it boot camp. I think Tony put that on there. So we'll work on that date. I'll get a confirmation from you. From now on I'll try to nail down an agenda that covers most of what I think you would still like to hear about that you haven't had an opportunity to cover, at least on a general overview.

And then the last item that I wanted to bring up, once a year we have to do an annual visit and inspection to our adult detention facility and our youth facility, and so we are due for that. It is required in the calendar year and we do it early in the year. We try to do it on the same date as one of the Commission meetings and I'm proposing that we do that on the morning of the February 28th meeting. If there's no objections to that date then we'll start working on that. If that doesn't work for you we would look probably to one of the meetings in March.

COMMISSIONER HANSEN: I have a question.

CHAIR ROYBAL: Commissioner Hansen.

COMMISSIONER HANSEN: Don't we have a Housing Authority meeting that day? How long does it take to have a tour of the detention facilities?

MS. MILLER: Mr. Chair, Commissioner Hansen, we do have a Housing meeting. We start our Housing meeting at 1:00 so we usually are able to do the two facilities in the morning and complete that tour by lunch time. Also Pablo, Director Sedillo, and the warden have always been so kind to feed us lunch at the adult facility so you get to taste the lovely food and you'll have lunch as a part of your tour. So then we'd be able to be back here in time for the Housing meeting.

COMMISSIONER HANSEN: Okay. Thank you.

MS. MILLER: Thank you. So we'll work on that and you'll see an invite on your calendars for that date. Thank you. That's all I have, Commissioner.

CHAIR ROYBAL: Thank you, Manager Miller.

VI. MATTERS FROM THE COUNTY ATTORNEY

- A. Executive Session. Threatened or Pending Litigation in which Santa Fe County is or May Become a Participant, as Allowed by Section 10-15-1(H)(7) NMSA 1978, and Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights, as allowed by Section 10-15-1(H)(8) NMSA 1978, Including the Following:**
- 2. Rights-of-Way for County Roads**
 - 3. Buckman Direct Diversion Structure Issues**
 - 4. Potential Claims of the County Under Water Services Agreements**
 - 5. Causes of Action Potentially Assigned to Santa Fe County Due to Payment of Claims by the County Indigent Hospital Claims Fund**
 - 6. Pojoaque Basin Regional Water Authority Joint Powers Agreement**

CHAIR ROYBAL: I would like to make a motion to go into executive session and County Attorney Shaffer if you can go over the items that will be discussed.

GREG SHAFFER (County Attorney): Mr. Chair, the items to be discussed in executive session and to be included in your motion are threatened or pending litigation in which Santa Fe County is or may become a participant, as allowed by Section 10-15-1(H)(7) NMSA 1978, and discussion of the purchase, acquisition or disposal of real property or water rights, as allowed by Section 10-15-1(H)(8) NMSA 1978, including the following: rights-of-way for County roads, Buckman Direct Diversion structure issues, potential claims of the county under water services agreements, causes of action potentially assigned to Santa Fe County due to payment of claims by the County indigent hospital claims fund, and Pojoaque Basin Regional Water Authority Joint Powers Agreement.

COMMISSIONER HAMILTON: Second.

CHAIR ROYBAL: Okay. Thank you, Mr. Shaffer, and with that I'd like to ask for roll call from Deputy Clerk Vicki Trujillo.

The motion to go into executive session pursuant to NMSA Section 10-15-1-H (7 and 8) to discuss the matters delineated above passed by unanimous roll call vote as follows:

Commissioner Anaya	Not Present
Commissioner Hamilton	Aye
Commissioner Hansen	Aye
Commissioner Moreno	Aye
Commissioner Roybal	Aye

[The Commission met in closed session from 3:32 to 5:08.]

CHAIR ROYBAL: I'd like to welcome everybody here this afternoon that's here from the public and I'd like to ask for a motion to come out of executive session.

COMMISSIONER HAMILTON: Mr. Chair, I'd like to make a motion that we come out of executive session where the only items discussed were those that are listed in the agenda. And the people who were present were Commissioner Roybal, Commissioner Moreno, Commissioner Hansen, Commissioner Hamilton, the County Manager, Katherine Miller, the County Attorney, Greg Shaffer, and the County Deputy Attorney, Rachel Brown.

CHAIR ROYBAL: I'll second. So we have a motion and a second.

The motion passed by unanimous [4-0] voice vote.

VI. B. Possible Action(s) with Respect to Threatened or Pending Litigation in which Santa Fe County is or may Become a Participant Discussed in Executive Session

CHAIR ROYBAL: We do have some action from executive session. Commissioner Hamilton would like to make a motion.

COMMISSIONER HAMILTON: Yes, Mr. Chair. I'd like to make a motion with regard to causes of action potentially assigned to Santa Fe County due to payment of claims by the County indigent hospital claims fund. I would move to authorize the County Manager to determine the amount due to the County with regard to claims paid on behalf of Michael Garrity and to execute such documentation as is necessary to resolve the County's interest in the cause of action assigned.

CHAIR ROYBAL: I'll second.

The motion passed by unanimous [4-0] voice vote.

VI. C. Resolution No. 2017-9, a Resolution Authorizing the County Manager to Negotiate and Execute a Cost-Sharing Agreement with the City of Santa Fe to Fund the Construction of a Finished Water Storage Tank as Part of the Buckman Direct Diversion Project and Execute and Submit Documents in Support of Water Trust Board Funding for the Tank [Exhibit 3: Staff Report]

CHAIR ROYBAL: Commissioner Hansen.

COMMISSIONER HANSEN: Yes. I would like to approve a resolution authorizing the County Manager to negotiate and execute a cost sharing agreement with the City of Santa Fe to fund the construction of a finished water storage tank as part of

the Buckman Direct Diversion project and execute and submit documents in support of Water Trust Board funding for the tank. Do I have a second?

COMMISSIONER HAMILTON: I'll second that.

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

The motion passed by unanimous [4-0] voice vote.

VII. DISCUSSION/INFORMATION ITEMS/PRESENTATIONS

A. Matters from County Commissioners and Other Elected Officials

- 1. Elected Officials Issues and Comments**
- 2. Commissioner Issues and Comments**

None were offered.

VIII. PUBLIC HEARINGS

C. Land Use Cases

- 1. CASE #S 16-5270 Tessera 2 Final Plat Approval. Homewise, Inc., Applicant, Design Enginuity (Oralynn Guerrerortiz), Agent, Request Final Plat Approval for the Tessera Phase 2 Residential Subdivision Consisting of 78 Lots on 69.56 Acres. The Property is Located off NM 599 North Frontage Road, within the Tessera Planned Development District, Within Section 20, Township 17 North, Range 9 East (Commission District 2) [*Exhibit 4: Applicant's Presentation*]**

VICENTE ARCHULETA (Case Manager): Thank you, Mr. Chair. Homewise, Inc., applicant, Design Enginuity, Oralynn Guerrerortiz, agent, request final plat approval for the Tessera Phase 2 residential subdivision consisting of 78 lots on 69.56 acres. The property is located off of NM 599 North Frontage Road, within the Tessera Planned Development District, within Section 20, Township 17 North, Range 9 East, Commission District 2.

Tessera Subdivision is a residential subdivision which consists of 166 residential lots and was to be developed in two phases. Phase 1 consisted of 88 lots and Phase 2 consisted of 78 lots on 146 acres.

The subject property received master plan approval for 88 lots on 84 acres in the late 1990s under the name of College Hills.

On December 18, 2001, the EZA, the Extraterritorial Zoning Authority, granted a master plan amendment for the Tessera Subdivision, formerly College Hills, which consisted of 166 residential lots on 145.97 acres to be developed in two phases. Phase 1 consisted of 88 lots on 76.57 acres and Phase 2 consisted of 78 lots on 69.56 acres.

On December 12, 2002, the EZC granted preliminary plat and development plan approval for Phase I of the Tessera Subdivision. On January 13, 2004, the BCC granted final plat and development plan approval for Phase I. The final plat for Phase 1 was recorded on April 5, 2007.

On August 12, 2014, the Board of County Commissioners approved a request for

preliminary plat and development plan for Phase 2 of the Tessera residential subdivision consisting of 78 lots on 69.56 acres.

The applicant now requests final plat approval for Phase 2 of the Tessera Residential Subdivision to create the 78 lots on 69.56 acres with 35 acres or over 50 percent designated as permanent open space.

The recommendation: Building and Development Services staff reviewed this project for compliance with conditions of the preliminary plat approval and for compliance with pertinent SLDC requirements and found that the facts presented support the request for final plat approval for the Tessera Phase 2 residential subdivision consisting of 78 lots on 69.56 acres subject to the following conditions. May I enter those into the record?

CHAIR ROYBAL: Yes.

[The conditions are as follows:]

1. Compliance with applicable review comments from the following:
 - a. NMDOT
 - b. NMED
 - c. OSE
 - d. SHPO
 - e. County Public Works
 - f. County Fire Marshal
 - g. County Utilities
 - h. County Planning Division
 - i. Soil and Water
 - j. Santa Fe Public Schools
 - k. County Open Space and Trails
 - l. County Affordable Housing
2. Final Plat with appropriate signatures shall be recorded with the County Clerk's office.
3. ~~Street lamps shall not exceed 16 feet in height.~~ [Deleted at staff report.]
4. The Applicant shall enter into a Subdivision Improvement Agreement with the County for completion of all subdivision improvements on-site and off-site, this agreement shall be signed by the Administrator, recorded and referenced on the plat.

MR. ARCHULETA: I have one clarification on condition #3. I would like to strike condition #3 because the code does allow for a height of 27 feet in the zoning district for a streetlight. Thank you, Mr. Chair.

CHAIR ROYBAL: Thank you. Do we have any questions from my fellow Commissioners?

COMMISSIONER HAMILTON: Mr. Chair, I have one small question. It had to do with the fire protection and the flow rate of the hydrants.

CHAIR ROYBAL: Commissioner Hamilton.

COMMISSIONER HAMILTON: I wonder if the hundred gallons per minute – I don't believe – was that approved by the Fire Marshal?

MR. ARCHULETA: No, ma'am. That's a clarification. That should be

1,000 gallons.

COMMISSIONER HAMILTON: Thank you. What's an order of magnitude?

CHAIR ROYBAL: Is the applicant here? Can we get the presentation from the applicant?

[Duly sworn, Oralynn Guerrerortiz testified as follows:]

ORALYNN GUERRERORTIZ: I'm Oralynn Guerrerortiz with Design Enginuity, and with me today is Michael Loftin, who is executive director of Homewise. Thank you for having us today. We're here for Tessera 2, which is the second phase of the Tessera project. We're located off of 599, just to the east of Aldea, to the west of Camino La Tierra, and this has been zoned as a planned development district under the County code.

What you have in front of you, Commissioners, was a power point presentation that I prepared too late to get it through the chain of command here so I'm so sorry, but what you'll see if you want to flip through it, and I'm sorry for the audience – I'm willing to show it to you at any time. But what you'll find in front of you is what I would have shown in that power point presentation.

Just past the zoning map which is the really pretty colorful purple one is what's out there today. The 88 homes, of which last count I heard and they've probably built a lot more since, they were down to 20 available lots. And the reason we're here today before you is the goal is to get this subdivision infrastructure in the mill and ready so that when Tessera 1 is completely built out Homewise can start selling homes in this, and they don't lose the momentum. This project is doing very well. It's a very popular project. It's very beautiful views and absolutely gorgeous. And I've got some pictures of the homes and the roads that are there today.

In phase 1, what they did was they built in essence all the main roads through Phase 2 and then they developed the houses on the north side. So the actual roadways that serve Phase 1, this long road here, this road here, and this one that connects over to Aldea, those are already in and being used today by people. They've got water; they've got sewer; they've got all the dry utilities already in these roadways.

The next picture is a Google map and it's kind of hard to see but you can see that there's a lot of homes already constructed in our project, and the following picture is a duplicate of the one I have here, showing you the development plan. We've got two archeological sites which are on permanent open space. We have 35 acres of open space which was a little more than 50 percent of the project. We have trails which are actually already installed. All the black lines – and they're kind of hard to see on this one – but all those black lines are trails that are dedicated for public use. They connect to the underpass under 599. They are being used by people who live in Aldea. We tried to design them so that people next door could easily access them. Anyway, they're already installed. I wanted you to know that.

We're going to be on County water. We're on a private sewer system. It's low pressure because we've got hills going up and down, and that connects and flows into the City's interceptor along the river, and so the sewage actually ultimately goes to the City wastewater treatment plant. We have plans for seven detention ponds that will be

centrally located in the arroyos in our project, and those ponds will mean there will be no on-lot ponding for the individual houses.

What else should I tell you about? We do agree to all staff conditions as presented. There are 12 affordable homes. We've scattered them through the development. The affordable housing agreement has already been approved by the BCC, and beyond that last picture that showed the affordable homes you'll just see photographs of the existing Tessera project and you'll see some beautiful homes that have been built by Homewise. Homewise is the developer. They build all the homes. They sell them here. And they've won awards on these homes. I don't know if any of you have seen them but they're absolutely beautiful homes.

And I think that's all I have to say and I'll stand for any questions you might have.

CHAIR ROYBAL: Commissioner Hansen.

COMMISSIONER HANSEN: Did the Homewise build Tessera 1?

MS. GUERRERORTIZ: What happened in Tessera 1 is Michael Hurlocker actually got that project approved and built it and then the economy tanked and he ended up losing it. And so Homewise purchased, I think out of the original 88 lots – how many did you get? About 72. They got 72 of those lots. Some of them Michael had already sold. So nearly all the homes in Tessera 1 were built by Homewise but not all.

COMMISSIONER HANSEN: By Homewise?

MS. GUERRERORTIZ: Yes.

COMMISSIONER HANSEN: And it looks like it's a much denser population in the back than it is in the front.

MS. GUERRERORTIZ: No, it's pretty much the same and I wonder why you have that interpretation.

COMMISSIONER HANSEN: Okay.

MS. GUERRERORTIZ: I don't think so. I think it's pretty much the same in general for the lot sizes. They're very comfortable lots with open space usually around – everybody has direct access to open space, usually.

COMMISSIONER HANSEN: So the other concern I have is does traffic go through Aldea?

MS. GUERRERORTIZ: It can. This road here connects to Aldea, and it's a way to get to their plaza, in fact, and it's secondary access for us, so we could use it in an emergency. There was some consideration about putting a gate here because traffic kind of speeds through because we don't have speed humps and I think Aldea does. But that was kiboshed because the newest code doesn't allow gates. So it's continuing to be an open access. We might want to put speed bumps on this road, frankly, or speed humps, because there are people kind of going through here trying to avoid the speed humps I think in coming this way. That's what I think, but I can't be sure.

COMMISSIONER HANSEN: I know that is a concern for residents of Aldea is the amount of traffic going to other subdivisions that go through their property.

MS. GUERRERORTIZ: Yes, I can imagine. From the Las Campanas area down.

COMMISSIONER HANSEN: I want to make sure that construction trucks and things like that will be coming in through 599.

MS. GUERRERORTIZ: Yes. Our construction trucks will come through 599 and through the Tessera entrance, our entrance right here. And we won't be coming through Aldea.

COMMISSIONER HANSEN: Okay. And also your water budget is .25?

MS. GUERRERORTIZ: .25 per home.

COMMISSIONER HANSEN: Okay. Do you think that's adequate?

MS. GUERRERORTIZ: I think that – I won't try to give my opinion on this in a rough way. I will say that people should live within a quarter acre-foot, yes.

COMMISSIONER HANSEN: And if they don't?

MS. GUERRERORTIZ: Then there are provisions in the County code to give them letters, and I think we need to do more than that but I'll leave that up to your discretion.

COMMISSIONER HANSEN: Okay. For the moment that's a few of the questions I had.

CHAIR ROYBAL: Okay, I don't think we have any other questions from the Board so I'm going to go on to the public. Is there anybody here from the public that would like to speak on this matter? Can I see a show of hands? One? Okay, sir, can you come up so that you can be sworn in?

[Duly sworn, Lyndon Searfoss testified as follows:]

LYNDON SEARFOSS: I'm Lyndon Searfoss and I live within the 500 feet of Tessera Phase 2 but I'm also the newly elected president of the board of directors of the Aldea de Santa Fe. So I'm here representing the part-time owners who couldn't be here whose houses directly abut Phase 2. We've had the plan since December 20th. We've looked at them and it looks to us like there's no technical violations.

CHAIR ROYBAL: Hold on one second sir. I wanted to also say on the record as well that we are going to have time – I think everybody else here is probably going to talk on the next case that will be coming up, so we will have a time limit of three minutes. So we'll go ahead and we'll start that with this one.

MR. SEARFOSS: I'm used to three minutes.

CHAIR ROYBAL: Thank you, sir.

MR. SEARFOSS: And Commissioner Hansen hit probably the things I was going to say, concerning traffic and construction. So at this point I haven't had any homeowner come to me with any serious objections.

COMMISSIONER HANSEN: Okay.

MR. SEARFOSS: Tessera Phase 1 is really a nice neighbor for Aldea. They've been very good. Thank you.

COMMISSIONER HANSEN: Okay. Thank you.

CHAIR ROYBAL: So that was the only public comment that we had so this is in District 2, which is my district, [sic] so I'd like to make a motion to approve and hope for a second.

COMMISSIONER MORENO: Second.

CHAIR ROYBAL: We have a motion and a second.

The motion passed by unanimous [4-0] voice vote.

VICKI LUCERO (Building & Development Services): Mr. Chair, can I just get clarification? Did that motion include staff's recommended conditions?

CHAIR ROYBAL: Yes it did. The motion included staff's recommendations. Thank you.

VIII. A. 2. **BCC CASE #APP 16-5151 Heart's Way Ranch Appeal.**
Richard Bank, Appellant, is Appealing the Santa Fe County Planning Commission's Decision to Grant Heart's Way Ranch, Susan Carter, Property Owner, JenkinsGavin Design & Development Inc., Agents, Three Variances of the Sustainable Land Development Code (SLDC) to Allow a Retreat Facility Consisting of Two Casitas, a Yoga Area, and a Main Residence on 39.5 Acres. The Property Owner Requested a Variance of Chapter 7, Section 7.11.6.6 to Allow the Grade of the Approach at the Intersection to Exceed 5 percent, a Variance of Chapter 7.11.2, Table 7-13, to Allow the Overall Grade of the Driveway to Exceed 10 percent in Three Separate Locations in Order to Get to the Casitas and Main Residence, and a Variance of 7.11.2 Table 7-13 Local Road Design Standards to Allow Access from Offsite Roads that Do Not Meet Code Requirements. The 39.5-Acre Property is Located at 34 Sendero de Corazon, Via La Barbaria Trail, Within Section 9, Township 16 North, Range 10 East, SDA-3 (Commission District 4) [Exhibit 5: Planning Commission Staff Report; Exhibit 6: Letters Supporting Appeal; Exhibit 7: Applicant's Road Photographs; Exhibit 8: Applicant's Driveway Photos; Exhibit 9: Letters Supporting Application; Exhibit 10: Lofton Letter; Exhibit 11: Mr. Deuschle's Submission of Carter Email]

[Commissioner Anaya joined the meeting telephonically for this case.]

JOHN MICHAEL SALAZAR (Case Manager): Thank you, Mr. Chair. Richard Bank, appellant, is appealing the Santa Fe County Planning Commission's decision to grant Heart's Way Ranch, Susan Carter, property owner, JenkinsGavin, Design & Development Inc., Agents, three variances of the Sustainable Land Development Code (SLDC) to allow a retreat facility consisting of two casitas, a yoga area, and a main residence on 39.5 acres. The three variances are of Chapter 7, Section 7.11.6.6 to allow the grade of the approach at the intersection to exceed 5 percent, Chapter 7, Section 7.11.2, Table 7-13, to allow the overall grade of the driveway to exceed 10 percent in three separate locations in order to get to the casitas and main residence, and Chapter 7, Section 7.11.2 Table 7-13 Local Road Design Standards to allow access from offsite roads that do not meet Code requirements. The 39.5-acre property is located at 34 Sendero de Corazon, via La Barbaria Trail within Section 9, Township 16 North, Range 10 East, Commission District 4, SDA-3.

On August 25, 2016, the applicant presented three variances to the Hearing

Officer for public hearing. The variances were mentioned in the caption, Mr. Chair. The Hearing Officer in support of the application memorialized her findings of fact and conclusions of law in written order in which she recommended approval.

On September 15, 2016, the Santa Fe County Planning Commission met on this case. The decision of the Planning Commission ended in a vote with three members voting in favor of the motion to approve the request, and two members voting against the motion. Under Chapter 14, Section 14.9.7.4 of the SLDC, a variance may be granted only by the majority of all the members of the Planning Commission. A minimum of four members approving it were needed. It was only three at the time. A second motion was then made to reconsider the first motion, again, it was a three to two vote.

A third motion was then made to table the request until the sixth Planning Commission member was present. That motion passed by three to two. This was tabled until the October 20th meeting. With a majority present the commission approved all three variances by a 4-2 vote. Those minutes are exhibits in your packet.

The property is, as mentioned, is 39.57 acres. It sits within the Rural Fringe Zoning area as defined by the SLDC. Chapter 8, Section 8.6.3. of the SLDC designates a retreat as a permitted use within the Rural Fringe Zoning District. The applicants' agent submitted an application for a site development plan to request a retreat. It was discovered after submittal that the approach to the intersection exceeded grade requirements of 5 percent for 100 linear feet and the grade of the driveway is 17 percent-21 percent in three locations. Permits were obtained in 1994 for a driveway with grades up to 14 percent. The approval was granted in accordance with the Extraterritorial Zoning Ordinance which allowed for grades of 15 percent. It is worth mentioning that the driveway was not constructed to the approved plans, however.

Building and Development Services staff reviewed the Site Development Plan for compliance with pertinent SLDC requirements. The driveway grade of 5 percent for 100 linear feet upon an intersection and the overall driveway grade to get to the casitas and main residence exceed the required grade of 10 percent, and offsite roads do not meet the 20-foot driving surface. La Barbaria trail is a basecourse surface with a minimum width of nine feet and a maximum width of 18 feet. The driveway that accesses the site is 14 feet in width with a base course surface and has pull out locations. Improvements were done for fire protection to include pull-outs, and two 10,000-gallon water storage tanks with a draft hydrant that was placed at the main residence.

Briefly, and the appellant can go deeper into what he mentions in his letter. Regarding the first variance to Chapter 7, Section 7.11.6.6, which does not allow the grade of the approach at an intersection to exceed 5 percent, Tortuga and Sendero de Corazon, he measured the grade at 16.5 percent and the intersection at Tortuga and La Barbaria Trail where he measured this grade at 15 percent. Regarding the second variance to Chapter 7, Section 7.11.2, Table 7-13, the appellant states at least a quarter of the driveway has an average grade of 17 percent making the distance 70 percent steeper than the SLDC allows. The appellant also states regarding the third variance to Chapter 7, Section 7.11.2 Table 7-13, Local Road Design Standards to allow access from offsite roads that do not meet Code requirements, due to width of the roadway not just to La Barbaria Trail but including La Barbaria Road, which one must take to get to La Barbaria Trail, there have been numerous mishaps with motorists and these steep, winding roads

and additional traffic could increase the risk even more. The appellant also states the fact that the subject property is located within an extreme wildland-urban hazard area and that there are fire dangers inherent within such a designation.

The applicant had addressed the variances for the Planning Commission. That's in your reports. Staff response to the applicants' review criteria response is in your reports as well along with fire review comments. Vicente handed out letters of opposition from people in the neighborhood along with the Planning Commission packet from September with all the exhibits and the staff report. So that was handed out to all of you.

Recommendation: Staff recommends granting the appeal and overturning the applicants' approved variances of Chapter 7, Section 7.11.6.6 to allow the grade of the approach at the intersection to exceed 5 percent; Chapter 7, Section 7.11.2, Table 7-13 to allow the grade of the driveway to exceed 10 percent; and a Chapter 7, Section 7.11.2 Table 7-13 Local Road Design Standards to allow access from offsite roads that do not meet Code requirements.

The Hearing Officer and Planning Commission approved the variances because they believed that the applicants met the variance criteria. If the Board decides that the applicant has met the variance criteria they may adopt the findings of the Hearing Officer and Planning Commission.

An appeal of the decision of the Planning Commission shall be reviewed de novo by the Board per Chapter 4, Section 4.5.4 of the SLDC and the Board may also make their own findings and conclusions. Mr. Chair, I'll stand for questions.

CHAIR ROYBAL: Do we have any questions from the Board?

COMMISSIONER ANAYA: Mr. Chair.

CHAIR ROYBAL: Go ahead, Commissioner Anaya.

COMMISSIONER ANAYA: So, Mr. Chair, the Planning Commission heard all the testimony and the feedback regarding the case and voted 4-2 to approve the variance. Is that my understanding?

CHAIR ROYBAL: I believe so. John, can you clarify?

MR. SALAZAR: Mr. Chair, Commissioner Anaya, that's correct. Initially in the September Planning Commission of last year there wasn't a majority to approve it so it was tabled until the October meeting and in that October meeting in a 4-2 vote they approved the variances for the applicant.

COMMISSIONER ANAYA: Mr. Chair and Mr. Salazar, you made a comment relative to the road not being built to what they said they were? What was that all about?

MR. SALAZAR: Mr. Chair, Commissioner Anaya, La Barbaria Road and La Barbaria Trail, they're existing roads that do not meet the requirements as set for the in the SLDC. The driving surface on some of the areas is 20 feet and it's still not wide enough. The right-of-ways are platted. It is platted right-of-way. In order to make those roads wider you would have to buy more right-of-way to meet the SLDC requirements.

COMMISSIONER ANAYA: I understand La Barbaria Road and the Trail but did you say something about in their property that they were supposed to do something or was that La Barbaria Trail?

MR. SALAZAR: Mr. Chair, Commissioner Anaya, that was the driveway when they came in initially for their permits for the structures on the property.

COMMISSIONER ANAYA: So they did not do anything to their property? I understand La Barbaria Road but did they do what they said they were going to do on their driveway?

MR. SALAZAR: Their driveway was not built out to the plans. No sir.

COMMISSIONER ANAYA: Is the applicant there? Why?

MR. SALAZAR: Mr. Chair, the applicant is present, the property owner and their agent.

COMMISSIONER ANAYA: So I guess that's just one question. They turned in plans to us. Why didn't they build them to what they said they were?

CHAIR ROYBAL: I guess that question will probably be answered a little bit later so we'll keep that question. Is there any other question from other Commissioners?

COMMISSIONER HAMILTON: Yes, Mr. Chair. I have a question.

CHAIR ROYBAL: Commissioner Hamilton.

COMMISSIONER HAMILTON: So one of the issues that you've described is general fire danger and I assumed in fact the question extends to general emergency response. The Fire Department responds to wildland fires and structure fires and medical issues as well so access is an issue. I saw in the packet materials just with regards specifically to structure fire the applicants have agreed to put in a sprinkler system but I wonder if there's staff that might elaborate a little on any information with regard to the broader emergency response issues that are associated with these road variances.

MR. SALAZAR: Mr. Chair, Commissioner Hamilton, the Fire Marshal is here and he can address those.

COMMISSIONER HAMILTON: Thank you.

JAOME BLAY (Fire Marshal): Mr. Chair, Commissioner Hamilton, do you want me to elaborate on –

COMMISSIONER HAMILTON: Yes, please.

MR. BLAY: Just so you know, this was – I just became the County Fire Marshal so I'm a little bit new to this particular case but from reviewing the packet I just realized that all the – I believe there are two casitas, one main house and one guesthouse, they're all fully sprinklered. I believe they have two 10,000-gallon water storage tanks for manual firefighting. I believe that they increased the width of their driveways to the 14-foot requirement that Tim Gilmore, he was the fire inspector that reviewed this particular case – he required them to do that and it looks like they did increase the width to 14 feet.

The gate was also increased to 14 feet, so basically, as far as fire protection they have met with the code requires.

COMMISSIONER HAMILTON: Is there other discussion of general access in bad weather, for example, with non-four-wheel drive vehicles? Because in that area, that area is responded to by Hondo and then the bigger eastern region and I know the med unit is not four-wheel drive. Eldorado has the only four-wheel drive ambulance and it would have to go on a second call. And then the issue of the actual fire truck in bad weather. So was that discussed at all? Do you have any input on that?

MR. BLAY: I mentioned if that was discussed. I did a site visit today, this

afternoon. The roads were muddy. There was a little bit of snow still on the ground and I did leave my Chevy Colorado in two-wheel drive all the time and I got to every single casita and the main residence with no problem.

COMMISSIONER HAMILTON: Well, I do have one other question. It's not regarding fire. It's regarding the traffic situation. I don't know if these are individual concerns. They were mentioned and I only got to breeze through quickly the documents we were just handed, but my understanding was that there was a traffic study done and there was some finding of fact in this, but there's some concern that this would increase traffic. Could we get some clarification?

MR. SALAZAR: Mr. Chair, Commissioner Hamilton, Public Works, after doing that initial study felt that a traffic impact analysis wasn't warranted. So the applicant for the site development plan was not required to provide a TIA.

CHAIR ROYBAL: Did you have any additional questions, Commissioner Hamilton?

COMMISSIONER HAMILTON: Not at this time. Thank you.

CHAIR ROYBAL: Commissioner Hansen.

COMMISSIONER HANSEN: There was a traffic study done by Walker Engineering. Is that correct? Or am I – no? Okay.

MR. SALAZAR: Mr. Chair, Commissioner Hansen, it was a trip generation report.

COMMISSIONER HANSEN: Okay. A trip generation –

MR. SALAZAR: By the Public Works Department. It's because they've been improving that road over the years as money comes in.

COMMISSIONER HANSEN: So with that trip generation, does this facility create more traffic or less traffic in the fact that they are a retreat facility as opposed to having a residential – people living there. If each casita was rented and the home was rented, what's the weight? Is there more traffic from the retreat facility or is there more traffic from the residential?

MR. SALAZAR: Mr. Chair, Commissioner Hansen, Public Works believed that the traffic would stay the same because the guests for the retreat wouldn't be bringing their personal vehicles. It would be the vehicles that are already on the property, the vehicles for the property owners.

COMMISSIONER HANSEN: So no person that's coming to stay at this retreat, treatment center would be driving to this facility. They would all be shuttled in?

MR. SALAZAR: That is what the applicant is proposing, Commissioner Hansen.

COMMISSIONER HANSEN: Okay. For now, that's –

CHAIR ROYBAL: Commissioner Moreno.

COMMISSIONER MORENO: Thank you, Mr. Chair. Some of the concerns were about fire danger and the variability of climate. How were those addressed in your evaluation of this project?

MR. SALAZAR: Mr. Chair, Commissioner Moreno, when the site development plan came in we forwarded it to the Fire Marshal's Office for their review, especially understanding that this is located within a wildland hazard urban area. I believe – I don't know that it's extreme but I think it's moderate on their map. The Fire

Marshal's Office, when they send us a response there's a form letter that they send us and it does address things that must be done within those hazard areas. They do that for every property that we send for review.

COMMISSIONER MORENO: How frequently do they do those evaluations; annually?

MR. SALAZAR: Mr. Chair, Commissioner Moreno, I don't know how recent that map has been updated. I've been here for 15 years and they've been using that same map for a while now.

COMMISSIONER MORENO: Thank you.

COMMISSIONER HAMILTON: Mr. Chair.

CHAIR ROYBAL: Commissioner Hamilton, you had another follow-up question?

COMMISSIONER HAMILTON: Well, I have a comment and question. I think this area is a substantial – it is in my district and it is a substantial urban-wildland interface concern. What it's formal designation is aside. As a volunteer firefighter in a neighboring districts we've had many conversations and with the County Fire Chief about that area being an interface concern. Also in the staff response, if you read the beginning of the first paragraph, although tenants have moved in and out of the casitas this area is an extreme wildland fire hazard area. During inclement weather and on slopes in excess of 10 percent emergency access may not be possible due to the severity of the steep slopes. And that's a finding that's contributory to this decision. But it's not entirely consistent with what we just heard from the Fire Marshal. So I'm a little bit at a loss about how to reconcile those two issues.

CHAIR ROYBAL: And did you have any other comments?

COMMISSIONER HAMILTON: Unless the County staff maybe has some direct – or the Fire Marshal has some comment on that.

MR. BLAY: Mr. Chair, Commissioner Hamilton, I believe it's rated as an extreme wildland urban hazard area and therefore they were required to do a vegetation management plan which they have done on their property.

COMMISSIONER HAMILTON: That's good to here, but with regard to the findings of facts relevant to the slope of the roads, which the variances are addressing and access for emergency vehicles, there seems to be a difference of opinion between what's written here and what we're talking about. So that's was what I was really interested in.

MR. BLAY: Like I said, I did a site visit. My vehicle was always on two-wheel drive and I had no problem getting to all the different areas. As far as an engine, we would have to take an engine and find out if an engine full of water would be able to go up that grade. Maybe that is the reason why the former Fire Marshal, he required them to have two 10,000-gallons storage tanks on top with a draft fire hydrant as well as a hose reel that would connect to those tanks. So in theory they would not even need a fire engine up on top.

And as far as medical emergencies, our ambulances, I don't know which ones are four-wheel drive and which ones are two-wheel drive but being smaller than an engine I would assume that they would be able to go up the hill the same way that I did today. But that would have to be done by taking an ambulance over there and find out.

COMMISSIONER HAMILTON: Just for the record, Eldorado Med 3 is four-wheel drive; Hondo Med 80 is not. Or County Med 80 is not.

MR. BLAY: Thank you.

CHAIR ROYBAL: Did that answer your questions, Commissioner Hamilton?

COMMISSIONER HAMILTON: Yes.

CHAIR ROYBAL: Okay, did we have any other questions from the Board? Commissioner Moreno.

COMMISSIONER MORENO: Thank you, Mr. Chair. You said that there's an evaluation of the fire risk and who looks at those reports and would that be your office?

MR. BLAY: It would be the wildland department within the Fire Department.

COMMISSIONER MORENO: Okay. And is the process in place already for that purpose?

MR. BLAY: Correct. The County adopted a wildland urban interface code that goes along with the fire code as well as the SLDC and that is what requires the width of the roads to be 14 feet, as opposed to 12 feet otherwise. Also to have that vegetation management plan in place and I believe it is what also requires extra fire protection.

COMMISSIONER MORENO: And what happens if a property owner hasn't complied with the wildland protocol? Do you cite them, if they're not maintaining their property so that their houses and property don't burn down?

MR. BLAY: If it's a new property, obviously, it's not going to be allowed to be built unless they are abiding by the current code. If it's an existing residence and they are in that extreme wildland urban interface area, yes, we would have to cite them and put a stop-work order. But if they do what the code requires, in this case which is to widen the driveways to 14, have turnouts, have turnarounds, which they have done also, and installed the fire protection system in all the buildings they are meeting the wildland urban interface code.

COMMISSIONER MORENO: Thank you. Thank you, Mr. Chair.

CHAIR ROYBAL: Commissioner Hamilton, did you have any additional questions?

COMMISSIONER HAMILTON: I'll wait.

CHAIR ROYBAL: Okay. I think that was it from the Board as far as questions. I just want to remind the public again that we'll have a three-minute comment time limit. I would ask that we try not to be repetitive and also just say that this will not apply to the applicant or the appellant. So we're going to go ahead and have the applicant come forward and the appellant as well. And if you could please state your name for the record and be sworn in.

[Duly sworn, Richard Bank testified as follows:]

RICHARD BANK: Let me clarify some things, based on the questions that were being asked. The Fire Marshal is correct regarding the property itself with respect to meeting the requirement that the Fire Department set, but La Barbaria Trail, which unfortunately has to go – you have to go up that to get to that property has widths of only nine feet which allows only very limited access for firefighting equipment. That's

our concern. That's my concern and I think that's your concern.

So while the property is pretty safe, at least the structures, a wildfire can be dealt with and emergency access is quite limited because of La Barbaria Road or Trail. La Barbaria Road too, for that matter.

Let me read – this is from the Santa Fe Fire Department, Fire Prevention Division. This was the official development review done July 13th by Inspector Gilmore. He says that it's approved but they have to do everything that's underlined. And let me read one of the things that is underlined. Roads shall meet the minimum County standards for fire apparatus access. Roads of a minimum of 20 feet wide. There is not a single inch of La Barbaria Trail that's 20 feet wide, so that's the problem. It's not the problem with the land itself but the problem with access to the land on the private road. So that's – I hope that helps.

The other thing about fire that I would point out is those tanks were installed before the current owners were there so it was done by the previous landowner, at least that's my understanding.

As for traffic, that's controversial and I'll speak to that specifically in my remarks, but I don't think it's a done deal nevertheless.

The first think that I wanted to do is update you on the map, this map. I don't know if you have color. You probably have gray scale. But this is the map that shows from the neighborhood all of the 19 parcels that are accessed by La Barbaria Trail. At the time that I submitted the appeal there were 11 of 14 folks who had opposed the variances. We have a couple more now and just to make sure that you're up to date there was a letter hand delivered to you by the Sheltons yesterday or at least to your staff. I don't know if you have that letter but if you don't I have a copy of the text which I can give you. The letter was dated January 4th from Jay and Katherine Shelton.

COMMISSIONER HAMILTON: Yes, sir.

MR. BANKS: You have that one. There was a second letter written by Willa Shallit dated January 5th. I'm not sure if she – do you have that one too? All right. So what we have then now is of the 19 property owners 16 have taken a public, formal position on this issue. Three have not. Of the 16, 13 now oppose the variances and support my appeal. So that's over 80 percent of the people that have taken the position oppose this retreat and my map you can see it's really pink. Yours will be dark. But the parcels owned by the Sheltons and Willa Shallit are parcels 13, which there are two of those, and parcel #12.

My voice is weird so please bear with me. Winter weather. The Sustainable Land Development Code is a lengthy document that by its own words is intended to be comprehensive and integrated suggesting to me and others that variances should require extremely exceptional circumstances. More on that in a moment. The simple fact here is that permitted uses in the code should be subject to safety standards and it's safety standards that Heart's Way Ranch wants you to waive. Consider for example the speed limit on La Bajada Hill, 75 miles per hour, which is in a sense the permitted use. Except where there's ice or snow on the road. When there's ice or snow on the road, safety takes precedence over permitted use. Safety should always take precedence over permitted use.

That was the staff's conclusion in the first round when they originally recommended denying the variance. They have repeated that recommendation here and I

suspect frankly that they are as surprised as I am that Heart's Way Ranch has made it this far. Perhaps the explanation lies in part in the fact that the principals and the representatives of Heart's Way Ranch have been operating in bad faith from the very beginning. As noted in my appeal, my wife and I were never contacted by the applicants despite the vigorous claim made by Ms. Jenkins that the applicant "reached out to every single one of their neighbors in this community."

No sign was ever posted on the public road as required by the code and the applicant was less than forthcoming in securing a waiver of the traffic impact study. They now offer a traffic impact study of their own, which literally makes no sense. I don't understand how Walker Engineering can make a comparison between three residences on the one hand and one residence and a four-room resort on the other when its data for the resort is so strikingly incomplete. But even assuming that there is some basis for the conclusion stated in its letter, the comparison must only involve guests at the resort and not the commuting employees. After all a resort will have someone at the front desk. They'll have a cleaning staff, a maintenance crew, a pool boy, servers, a bartender and daily deliveries likely as well.

Similarly, the assurances offered by Heart's Way Ranch of no additional traffic impacts completely ignores the traffic to be generated by practitioners and service providers, that is people coming up to service their clients. While they probably won't need a bartender they will have to satisfy the therapy and amenity expectations of clients spending \$15,000 a month.

Finally, once the variants are granted there is no guarantee that the clients will not be allowed access to their vehicles and no limit on the number of clients that will be served. But more telling, more telling, is what can only be described as intentional efforts to mislead the hearing officer and the Planning Commission at the public hearings. First, the land use staff mistakenly reported before the hearing officer that the grade of La Barbaria Trail met code requirements. I attempted to correct that error in my testimony referring to the big hill, the same big hill that is described in my written appeal and the grade of which is documented in the survey attached to that appeal.

Here is Ms. Jenkins rebuttal to that comment. "The big hill that was referenced, I was unfamiliar with that particular part of La Barbaria Trail and I've learned that this is beyond where Camino Tortuga forks and heads to the subject property so that no guest of the ranch would go that far down La Barbaria Trail." This statement is patently false. Anyone traveling to or from Heart's Way Ranch must negotiate the big hill. Perhaps Ms. Jenkins was genuinely confused. Perhaps she has never actually been to the subject property but she made this statement in front of the principals, both Dr. Scott and Ms. Carter as well as their attorney and no one bothered to correct her.

So the hearing officer believed that there was no grade problem, no grade variance required on La Barbaria Trail. And apparently Ms. Jenkins has not yet accepted the reality of the big hill. In her response to my appeal she simply repeats the mistaken testimony regarding the grade of La Barbaria Trail. "The only variance required relates to the width of the existing easement and roadway."

Second, when Ms. DeVargas from the County Fire Prevention Division told the hearing officer that the applicant had agreed to all the requirements addressed in Inspector Gilmore's July 13th letter, requirements which as I read to you earlier cannot be

met on La Barbaria Trail. There is no way in a 20-foot easement to create a 20-foot roadway that meets the grade requirements. So when Ms. DeVargas said that the applicant had agreed to all the requirements, neither the principals nor their representatives rose to correct that error.

Finally, before the Planning Commission, Ms. Jenkins again claimed that the Fire Department had approved the project, omitting the fact that its approval was contingent upon conditions which can never be satisfied. While we surely have different opinions about this matter it seems to me that we all have an obligation to the truth.

These two instances are critical because the order issued by the hearing officer was predicated on two falsities. One, that there was no grade problem with La Barbaria Trail and that road is a steep road, as documented in my appeal documents and the survey that's attached to them. And two, that the Fire Department had approved access for its firefighting equipment up that road which never happened.

As to the new claim that none of the clients of the ranch will be the hard-core addicted smokers predicted by the statistical evidence Ms. Jenkins taken by Heart's Way Ranch and its supporters before the hearing officer. This is from her response to my appeal. "A person who chooses to smoke would not choose a non-smoking property on which to stay when there are other options that allow a person that option." Yet the bulk of the testimony before the hearing officer, both written and verbal and offered let me note almost entirely by non-residents of La Barbaria Canyon, most of that testimony spoke to the desperate need for a retreat like Heart's Way Ranch because of the lack of alternatives. So where are the recovering addicts who smoke going to go and who are we supposed to believe?

Perhaps we should trust the words of the late Chief Justice of the New Mexico Supreme Court, the Honorable Pamela Minzner. Writing for the Court of Appeals in *Downtown Neighborhood Association v. Albuquerque* she says the following: "Variances should be granted sparingly. Only under exceptional circumstances. To do otherwise would encourage destruction of planned zoning." And here she cites *Clauser v. David*, an interesting federal case worth a brief summary and brief swallow of water.

The original plaintiff in *Clauser* purchased a residential property with the intention of converting it into a commercial law office. He then fixed up the place while seeking the necessary variance, claiming he would go bankrupt if the variance was not granted. The court in that case said the following: "Hardship if any has resulted solely from the appellee's appropriation of the property for commercial purposes without first having obtained the necessary change in zoning." Sound familiar? The original applicant in this case acquired a residential property with the intention of converting it to commercial use without first securing the necessary variances. As noted in my written appeal, hardship if any must be understood here to be self-inflicted as it was in *Clauser*.

But the more interesting question is what exactly is the hardship the applicant claims. She wants you to believe that in order to bring the roads into compliance she will have to spend a great deal of money and tear up a great deal of the countryside. But the fact is she has no legal authority to widen the 20-foot easement to widen the 20-foot easement of La Barbaria Trail or to cut and fill beyond that 20-foot limit. And because of the mountainous terrain it spans there is absolutely no way to create a 20-foot roadway meeting the grade requirements within that easement. No way, in other words, to bring

that road into compliance with the fire code or the safety standards of the SLDC.

So I ask again, what exactly is the hardship the applicant claims? Denying the variances will not burden the residential character of the property she purchased in any manner, so it can only be that she won't be able to establish her commercial retreat. But no one with property along La Barbaria Trail can establish a commercial retreat without securing a variance for La Barbaria Trail, hence there is absolutely nothing exceptional about the applicants' position or property.

The SLDC allows variances only where extraordinary and exception situations or conditions of the property result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner. This from Section 14.9.7.1. And a variance is defined as follows: Permission to depart from this code when because of special circumstances applicable to the property strict application of the provisions of this code deprive such property of privileges enjoyed by other property in the same vicinity or zone. This is from page A-43.

The purpose of this provision, the purpose of the doctrine of exceptionality is to remedy an exception, not to create one. But granting the applicant the variances she seeks will do exactly that, namely create an exception, and owing to the SLDC's definition of variance, every property owner in similar circumstances, not just along La Barbaria Trail, but in all other rural fringe zones in the county must be granted the same privileges afforded the applicant. In other words the precedent set by granting the variances in this case will permit all property owners in all rural fringe zones to disregard the road safety standards in both the SLDC and the fire code when proposing a permitted commercial development. This kind of precedent is just what Justice Minzner meant in Downtown Neighborhood when she warned of the destruction of planned zoning.

So more than just the integrity of this process thus far is in question, the integrity of the SLDC ordinance itself is at stake.

Knowing the applicant to pick and choose among the provisions of the code undermines the intention of comprehensive and integrative planning. Apparently, fostering the vitality of local businesses is the lone purpose of the code that interests her. Never mind that granting the variances sought by Heart's Way Ranch does not promote the safety and welfare of county residents with potentially devastating consequences for the surrounding property, the county and the region. La Barbaria Trail is a steep, narrow road which restricts access to all but the smallest firefighting vehicles while the threat of wildfire already extreme in La Barbaria Canyon will be significantly exacerbated by a commercial operation that by its very nature and design will attract and house hard-core addicted smokers from out of state.

CHAIR ROYBAL: Okay, you guys. Let's give him some respect.

MR. BANK: I hope you've read my documents and the research that I've presented there. Ms. Jenkins claims that they're only going to have non-smokers. That creates its own set of problem but even if they're able to do that, which doesn't seem likely, they're going to have to search everyone every day. Where was I? Moreover, the likelihood of increased traffic, and I refer again to the service providers coming to and from, commuting to and from the retreat, the likelihood of increased traffic, which brings inherent risk to vehicles and pedestrians alike, especially given the steep, narrow and twisting character of the roads will also have adverse effects on air quality and climate

change, contrary to the ethic of responsible ecological development apparent throughout the stated purpose and intent of the code. And these risks and adverse effects will only be magnified if the variances are approved, thereby opening up an environmentally sensitive neighborhood to increase commercial development which in turn would directly compromise the zoning regime of the SLDC.

As for the applicants' reliance on economic impact to satisfy the mandate that a variance observe the spirit of the code, Mr. Graeser, speaking before the Planning Commission, succinctly captured the dilemma faced by the applicant. "Either it's a business that's going to provide jobs for a lot of people, in which case there's going to be a lot of traffic going up that road, or there's not going to be a lot of traffic going up that road, but then it's not going to have much of an economic impact. You can't really have it both ways."

So I trust that you've read my appeal documents and I won't burden you with more repetition, but I will remind the Board that this is a de novo review and as such, the burden of proof again lies with the applicant for the variances. She must demonstrate all of the following. One, that her proposed retreat does not pose risks of increased traffic on substandard roads. Two, that it does not impose an increased danger of wildfire. Three, that the residential property that she purchased has exceptional characteristics that justify the sacrifice of the road safety standards embodied in the SLDC and the fire code. Four, that the use of her property solely as residence constitutes a hardship akin to a legal taking. Five, that her proposal taken as a whole observes the spirit of the SLDC, and six, achieves substantial justice. Failure to establish any of the foregoing constitutes grounds for denying the variance. Indeed, according to the letter of the code, failure to demonstrate any one would compel denial. Thank you guys for your attention. I was a little disrupted but I can live with that, and I stand for and welcome questions and would respectfully reserve a right of rebuttal.

CHAIR ROYBAL: Okay, do we have any questions from the Board for him? Not at this time, sir. Thank you.

COMMISSIONER HAMILTON: Thank you very much.

CHAIR ROYBAL: If we could have the applicant.

[Duly sworn, Jennifer Jenkins testified as follows:]

JENNIFER JENKINS: Good evening, Commissioners. My name is Jennifer Jenkins. I'm with JenkinsGavin and I'm here on behalf of Susan Carter and Dr. Shari Scott, the applicants in the Heart's Way Ranch variance applications. So I would like to – I'm just going to do a brief overview of the site development plan request that has already been reviewed and approved by the Growth Management Department and try to keep it as brief as I can, and then my clients, Ms. Carter and Dr. Scott will have a few things to share as well, and then we will wrap it up, trying to keep it as brief as we can. So I'm just going to pull up some visual aids real quick.

So this is an area of the La Barbaria Trail, an area of the La Barbaria Trail neighborhood. So this is La Barbaria Road, which you access directly off of Old Santa Fe Trail and La Barbaria Road comes out here and then it ends up into a large ranch property here. This is La Barbaria Trail here that leads into the neighborhood. La Barbaria Trail was established in a 20-foot easement in the early 1980s which was very common for kind of semi-rural access roads into subdivisions. A 20-foot easement, you see them all

over the county. And so that is an existing condition and the roadway varies, as was stated, from about at its narrowest points of nine feet all the way up to 18 feet in width on the established roadway.

So what I'm going to pass out now are actually some photographs of the road so you can just get a sense of the roadway itself. And as you can see the roadway is, yes, it is a mountain neighborhood. It's a mountain road and it is in quiet excellent condition and is cared for quite well by the road association in the neighborhood as far as road maintenance and make sure the road is safe and passable.

With respect to the variance requests, with respect to La Barbaria Trail, it is a function of the width. We have an existing 20-foot easement. As was accurately stated, we have no rights to increase the width of that easement in order to accommodate a 20-foot drivable surface. In the memos that we have from the Fire Department it is standard language that the Fire Department always requests offsite roads with a minimum of a 20-foot drivable surface but the Fire Department recognizes that that is not always possible. So they have to look at it in the context of the situation. And so what has been agreed to to compensate for the fact that we have an existing 40-year-old roadway that does not meet current standards, there are certain compensations that can be made to ensure life safety. And so that is what we worked very closely with the Fire Marshal's Office to ensure life safety on this property.

So what we have in place right now is my clients purchased the property in January of 2016. So they've owned the property just about a year. The existing structures on the property – actually let me pull up the map here. Let's just talk about the property. So the subject property is located here on this map. So now we are zoomed in and the property comprises a 3,600 square foot main residence, and these are the two casitas. They're each 1,100 square feet and there's a small little workshop space here. The property was improved and developed in 1994 and at that time the driveway, which is Sendero de Corazon, was permitted. And this was done under the Extraterritorial Zoning Ordinance, which was the governing land use document for this part of time in 1994. And this goes to Commissioner Anaya's question regarding the driveway construction at that time.

At that time driveways were permissible to be up to 15 percent in slope; the grade of the driveway could go up to 15 percent. The permit drawings that were submitted at that time, in 1994 for the driveway showed a maximum slope of about 15 percent. So as we researched this in collaboration with Land Use staff we discovered that when the driveway was constructed they didn't build it completely in accordance with the permitted plans at that time, in 1994. So we have some areas of the driveway that exceed the 15 percent that was permissible at that time and that also exceed the new regulation which is driveways should be a maximum of a 10 percent slope. So currently about 20 percent of the driveway, there are segments that exceed a grade of 10 percent.

In 2012 – these are actually images of the driveway serving the property itself – in 2012 Mr. Lofton, who was the owner of the property at that time, made some very significant improvements to the property. One is he did significant improvements to the driveway to ensure that there's a minimum of 14-foot width of that driveway, which is the requirement. It's the current code requirement that driveways must be a minimum of 14 feet, and in addition, Mr. Lofton worked closely with the Fire Marshal's Office to say

what do I need to do to ensure that my property is safe? My property is accessible? And I want to be the safest property in the area. How do I do that? And he received guidance and counsel from the Santa Fe County Fire Marshal's Office. And in response to that he developed pullout areas in accordance with fire code that would allow vehicles to pass one another. So if an emergency vehicle is attempting to access the property there are designated pullout areas which you can see in the images that I've shown you that would easily accommodate cars passing one another. And there are a series of five of those as you go up the driveway. Then when you get to the top of the driveway at the main residence, not only is there an emergency turnaround, so there is no need to back out, there are also two 10,000-gallon storage tanks of water connected to a draft hydrant up at the main residence.

So those improvements were in place when my clients acquired the property a year ago. Subsequent to that, in reviewing the application with the Fire Marshal, in recognition of we have an existing condition of La Barbaria Trail. It's well maintained road, it's a very passable road, but it's an old, narrow mountain road. And in consideration of that the Fire Marshall added additional conditions of approval, two of which are that the main residence and those two casitas must be equipped with automatic fire suppression or sprinkler systems, which is another common terminology. And what that does is that buys the Fire Department time. That if there is any kind of fire those sprinkler systems will go off and that fire will be put out.

There were also a couple areas where the Fire Marshal requested that the turning radius in a couple of areas where the driveways go off to the casitas, that those be widened out and improved and we said, absolutely. We're happy to do that. In addition, there was a requirement for a vegetation management plan, which is required when you're in a wildland area. My clients have already met with the wildland staff at the Santa Fe County Fire Department and they were incredibly pleased with the state of the property. There's a few areas where some vegetation needs to be trimmed back in terms of its proximity to structures but that work is already underway. We've already had that meeting.

So we have gone – there already were significant measures in place to ensure life safety and additional measures as a result of this application are going to be in place. Everything on this property is here. There is no new development. We have a main residence and we have two existing casitas that have historically been rented full time. Full time residents in three homes. That is not what we're proposing today. And as was stated, the Public Works Department felt that because of the nominal level of traffic that was predicted that a traffic impact analysis was not necessary for the site development plan application.

However, we thought it was worthwhile to look at – how would you compare three residences that are occupied with what we are proposing. So for the purposes of developing a traffic study the first place you go is to the Institute or Traffic Engineers, or the ITE, and they establish the trip generation numbers. If you've got 1,000 square feet or retail or you have a restaurant or you have an office building, there are national standards for how much traffic those uses generate. So they have all the land use categories. So you find your land use category, you find your square footage and then it tells you how much traffic is going to be generated.

So they don't have a category as a retreat. It's just not something they have. This is unusual. So we said, well, what's the closest approximation that we could use and we thought, you know, maybe like a resort hotel, something of that nature. And as we reviewed all the land use categories that felt like the closest approximation. And what the ITE takes into account, for example if you're looking at something like a bed and breakfast or a hotel or something they don't just take into account the guests, they take into account any staff that would be associated with that operation. So we have four – each casita has two bedrooms, so we have a maximum capacity of four to six women could temporarily reside at the property at any given time, temporarily.

As has been stated in the materials that you have, these women will not have their own cars. They will not have their – they are not getting up in the morning and going to work. They are not going to the grocery store. They're not coming back and then going out to meet friends for dinner. They're not going back and forth. It's a really important distinction.

So we looked at the traffic generation. Based upon a resort hotel which is the best, the closest thing we could come up with, but I think we could all agree that that's more traffic than what would be generated by what we're proposing with guests that are there without their own cars. The traffic generation was identical to three residences. So the assertion that this is going to result in an increase in traffic is just not true. We have maintained that from the very, very beginning. This is not an intensification of use. There is nothing in evidence that this results in an intensification of the use of this property. It is actually quite the opposite.

So I'm going to pull up another image here that I think is a little bit easier to see. So this is the site plan of the property. So this is Camino Tortuga. La Barbaria Trail kind of forks here with Camino Tortuga and it goes off in this direction to serve some additional homes. And then we have Camino Tortuga comes this way to serve these residences here, and then we have Sendero de Corazon which is the driveway that serves the property here. And these are the pullout areas that are referenced and also are reflected in the photographs that I've provided.

So I've already spoken about the fire protection measures, the ones that are existing now and the ones that will be put in place and there was a question – I don't recall which Commissioner asked it. It might have been you, Commissioner Moreno, regarding what if they don't do it? What if they don't do their vegetation management plan? What if they don't put in their fire suppression? What then? We don't have a choice. We have a site development plan approval and we have existing variance approvals as granted by the hearing officer and the Planning Commission that are conditional upon those measures being done. We have to have an inspection by the Fire Department to check the boxes that we have done everything that is required of us. So we don't get to not. That is absolutely not an option. That is a condition of this approval. We can't move forward until those measures are in place.

And while I fully respect as any resident in this type of environment – yes, you have to be incredibly cognizant of fire danger at all times. This is safest property in the area relative to access and fire suppression. And there is nothing in evidence, absolutely nothing that this retreat is going to somehow result in an increase in fire danger. There are people living in this neighborhood today. There have been people living in those

casitas historically. Yes, you have to be cognizant and cautious. This is a non-smoking property. It just is. The applicants are non-smokers. That is going to be a requirement of any guest who seeks to come here for their wellbeing and their healing.

Bear with me while I just confirm a couple of things in my notes. And lastly, with respect to the extraordinary circumstances that we are faced with, those extraordinary circumstances relate to this beautiful mountain environment. If we were to go bring, for example, the driveway and reduce that grade to 10 percent all the way up to the house, like I said, there's only about 20 percent of the driveway that is over 10 percent. The amount of environmental damage to this area, it's unnecessary and unwarranted. This driveway's been very sensitively constructed, originally, and reconstructed in 2012 to make it as safe as possible while respecting the environment that it's in, without undue damage to the vegetation, retaining walls. This is a mountain environment and it's the safest property in the area. And it will get even safer.

So with that I'm going to go ahead and have one more handout for you and then my clients would have a few words. I really appreciate your attention. Thank you very much. Let me tell you what I'm about to hand you. So I have letters of support from the La Barbara neighborhood area as well as throughout the entire community. There are 2 letters of support and petitions with 31 signatures in support of these requests. So I'm going to go ahead and pass these out to you now. So next we have Susan Carter.

CHAIR ROYBAL: Okay. Let's make sure we get her sworn in.

[Duly sworn, Susan Carter testified as follows:]

SUSAN CARTER: I'm Susan Carter. Good evening, Commissioners. It's an honor to be here. I'm Susan Carter and this is my partner, Shari Scott behind me. My partner, my best friend for more than 42 years. Shari's spent her entire career in health care as a registered nurse, therapist, nurse practitioner in psychiatry and a doctor in family counseling as well as a first responder. And I have spent mine in non-profit management. Together we share 56 years of accumulative sobriety, both seeking a meaningful way to end our corporate careers and being single and self-supporting we wanted to invest in helping women find what we have been so graciously given – freedom from addiction.

We wanted to establish a small, sober-living environment for women who have completed treatment but needed a place to heal, a sanctuary for four to six sober women, a property where no alcohol or drugs, tobacco or firearms would be allowed, a quiet place where women could feel safe and come home to themselves in a way they never knew they could.

We bought 34 Sendero de Corazon back in January of 2016 after conducting three months of due diligence on the property and on creating a business such as this, including ensuring the proper zoning, multiple visits with the County Fire Marshal, seeking legal counsel on all aspects of both business and the property, and conducting inspection after inspection on the safety of the property. Unfortunately, before we got afforded the opportunity to meet with all the neighbors to explain our plans, rumors and misinformation spread like poison ivy. Neighbors were told we were opening a detox and treatment facility for drug and alcohol addicts. They were told not to meet with us when we requested individual meetings. Attorneys were hired and it escalated to a point of no return.

Inflammatory language is being used about a commercial entity now being allowed to exist in La Barbaria Canyon, like we're trying to erect smokestacks. There will be no new development on our property, other than possibly slight improvements on the main house. Our residential property will remain a residence, operating a business as so many others do in our neighborhood right now. We bought the property with divine intent and were fully transparent in our plans. We are here to discuss three road variances we need to secure to move forward with our County staff approved site development plan. The staff and County Planning Commission do not recommend modifying the roads to fit the County code as I'm sure you understand even more than I do.

So please uphold their approval, and to reiterate, other permissible situations such as short- or long-term rentals, what Ms. Jenkins said, present much more risk than four to six sober women at a time on 40 acres. Commissioners, we hope that you will not let these variances stand in the way of the healing work we hope to do on this amazing 40-acre property in La Barbaria Canyon. Thank you for your attention and your consideration of this request.

And if it's okay, I'd like to read one letter into record. It's from the former owner of Sendero de Corazon who I actually bought the property from regarding the road. Would that be permissible?

CHAIR ROYBAL: Yes.

MS. CARTER: This comes from Craig Lofton who owned the property right before I did. Is that okay? Dear Honorable Commissioners, I'm writing in support of Susan Carter and Dr. Shari Scott, PhD, the applicants in the Heart's Way Ranch request. I was the previous owner of the property they now own. I support their efforts to establish a retreat under the guidelines of the County Sustainable Growth Management Plan to transition women after rehab back to productive lives, families and careers. People who help others put their lives back together should be commended and supported.

As the previous owner of the property I personally invested significant time and money to improve the condition of both La Barbaria Trail and Sendero de Corazon. When my wife and I purchased the property in 2012 we found La Barbaria Trail neglected and in extremely poor condition. It was an eroded, pot-holed washboard that was very unpleasant to drive on. Passage on the road was less than safe at times because it seemed to be an obstacle course where resident drivers were challenged to maneuver from side to side at high speed to avoid pot-holes, ruts and washboards.

I contacted the road association's manager, Catherine Joyce Coll, and asked if it could be improved. Catherine recruited me to focus on the road improvements while she paid attention to fire mitigation, her real interest. I accepted the offer, confident I could effectively manage significant improvements to the road that all members of the La Barbaria Road Association would appreciate. I hired Red Line excavating to grade and install high quality basecourse, water and roll the road. After that was accomplished I implemented a regular maintenance and repair program to keep the road in good condition.

The road association paid for a majority of the work but I paid Red Line with my own money to grade and roll the road on more than two occasions. I received very favorable feedback on Red Line's work on La Barbaria Trail. Everyone I spoke to appreciated the improvements we made to our neighborhood road. There was one curious

dissent, however. One person I talked to told me there was a neighbor who expressed their displeasure with the improvements because the road was now too good and would encourage tourists to invade the neighborhood.

I cannot help but think this is in large part representative of what it is behind the appeal before you now. We made significantly more improvements to Sendero de Corazon. Red Line moved literally hundreds of yards of surface material to reduce the grades in the steeper areas, widened the drive, dug drainage ditches, installed new culverts and installed the highest quality basecourse material on top of it all. We built five new pullouts and a turnaround for fire equipment to Fire Department specifications. We also installed several dozen railroad ties in a vertical position alongside the driveway as a guardrail safety system.

We performed the work on Sendero de Corazon for two reasons. First, comfort and safety, and second, in anticipation of a major remodel to the main house. Our architect met and consulted with County fire officials and brought them to the property to walk the drive to get their assessment and recommendations. We completed a majority of the recommendations from those meetings. Admittedly it was a real challenge to balance getting the drive totally compliant with newer County codes, not defacing the natural setting of the national forest, and controlling the high cost of the work. We accomplished our goals. When we lived up there UPS and Fedex delivered packages to us nearly every day in large delivery trucks. Pecos Petroleum and Amerigas delivered propane in large tanker trucks. I rented the largest 26-foot box trucks from Penske and Enterprise on five separate occasions to move household goods and shop equipment. We drove two 10,000-gallon water tanks up the hill as part of our water purification and fire safety projects. Clearly the roads work for all the residents of La Barbaria.

While living on Sendero de Corazon I plowed snow in our drive and occasionally on La Barbaria Trails, Owl Creek and Camino Tortuga. A few decades ago I paid my college expenses plowing snow. I enjoyed it. Plowing the area several times gave me a good sense of the condition of the roads and the drives. In my opinion, Sendero de Corazon is in the best condition of all of the drives on La Barbaria Trail and is in better condition than La Barbaria Trail. I appreciate the Board's consideration of this matter. I hope when you balance the merits of the Sustainable Growth Management Plan and Sustainable Land Development Code with the challenges posed by the natural environment you vote to uphold the variances granted to Heart's Way Ranch. Respectfully, Craig Lofton.

Thank you so much.

MS. JENKINS: So in closing, there's just one more element I wanted to address and this is the question of precedent. These variances have been approved by the Planning Commission. Does that set some sort of precedent, which means any request that comes forward in the future has to be approved. If that was the case then there wouldn't be a need for this process. This process would have no meaning. It is the County's policy: Every application must stand on its own merits. Every application is unique and must be reviewed in accordance with the processes that are laid out in the SLDC.

I don't get to stand up here and point to some road variance that might have been granted in some other part of the county as a basis for this approval. These approvals

were granted thoughtfully and carefully by the hearing officer and your Planning Commission. It was stated that staff had recommended denial of the variances which is absolutely true. It is also a Land Use policy. They always recommend denial of variances every single time. And that is the context in which that recommendation is made.

So, no, we do not establish some carte blanche precedent from the granting of these variances. Every application has to go through the process on its own merits and that's what we did. Thank you very much for your time and attention. I really appreciate it.

CHAIR ROYBAL: Okay, I'd like to say thank you to our applicant and our appellant for all the information and your presentations. I want to move into the public comment. Can we have a show of hands on who would like to comment today on this issue? Okay, and if we can have everybody come forward in the rows so we can go ahead and swear you all in at the same time. And remember when you come to the podium you have to state your name and your address.

[Those wishing to speak were placed under oath.]

[Duly sworn, Dr. John Kitzmiller testified as follows:]

DR. JOHN KITZMILLER: My name is Dr. John Kitzmiller. I live at 97 La Barbaria Road. I want to speak in support of granting the variance for Heart's Desire Ranch very strongly. I believe that the issue of traffic is specious. There will be less traffic then when having guests use that property. The opposing gentleman was inflammatory in his remarks and he was not correct in saying that there was no public sign. I saw it myself when I went up to investigate the roads in that area. There was a big public notice sign of what was coming forward.

As a physician to women for my lifetime career, now retired, I strongly support the wisdom of having this healing treatment recovery center. It's not a rehab. It's for alcoholic women who are finished with rehab in sort of a halfway safe, peaceful place, inspiring to go to. La Barbaria Canyon is a very, very spiritual landscape and it's a highly appropriate use to establish this variance. Thank you.

[Previously sworn, Harmon Houghton testified as follows:]

HARMON HOUGHTON: Commissioners, I'm Harmon Houghton. I'm a local business man, have a publishing company and coordinate a lot of events in communities around town. I've recently met the new owners of Heart's Way Ranch and did visit it right before Christmas in a two-wheel vehicle, had no problems navigating the hill that's being described in only a two-wheel drive.

I'd like to deconstruct the previous gentleman that gave the well researched diatribe in his message into five words, for the same of brevity, which is Not In My Back Yard, and from the little bit that I've known about the two principals of the property they're both career healthcare givers and healthcare business people. They are two females that have gone out on their own and created a center that will serve others and by no means can two casitas be construed as a luxury hotel, and if you go to the property itself, there are no luxury hotel amenities. There are no swimming pools. There's no bartender. There's no concierge. It is structured to be a healing center. And I think what we're facing is a little bit of discrimination because the two principals do not fit necessarily the model of the landowners of that property, which is a battle that's been fought many times through Commission and zoning, most all of them lose.

So I would urge the Commissioners to approve the variances and allow the healing center to go on and constructively become members of the community. Thank you very much.

[Previously sworn, Maeve O'Neill testified as follows:]

MAEVE O'NEILL: Hello. My name is Maeve O'Neill. I'm at 25 Vista Point Road in Santa Fe. I am the CEO of the Life Healing Center, which is right across the highway from this property. We are a residential treatment center for alcohol, drug use and mental health issues. And I just wanted to say, as a licensed professional counselor and licensed chemical dependency counselor I find some of the language used earlier very offensive to clients who are protected by the ADA and we should not speak about them in such a way as was spoken earlier.

I have been working in this field for 30 years. I've seen lots of stigma, lots of judgment about people in long-term recovery and I think it's really important to remember Life Healing Center opened 20 years ago here in Santa Fe and our founders, Bill and Ann Snyder fought a four-year battle to get the program approved. Luckily it was approved and we have since served thousands of lives, saved thousands of lives, many of them from New Mexico and several, many, from Santa Fe. So without the program there they would not have perhaps survived their addiction or the mental health issues.

When we opened 20 years ago we fought the battle. We won it. Since that time we've had no issues. There's been no wildfires. There's been no danger to the wildlife. We've only saved lives. And we are a 40-bed smoking facility. So we don't have nearly -- we don't have the issues that people are fearful of based on the stigma that was presented earlier. Our clients come to us from New Mexico, from Santa Fe and lots of other places and many need the services that Heart's Way Ranch will provide. We need a continuum of care that provides support and long-term resources for people in recovery. That's how we will save lives and change more lives. The folks that you all serve are the lives that we will help. So we feel what Heart's Way Ranch is a critical piece of the continuum of care and we hope you will approve it. Thank you.

[Previously sworn, James Deuschle testified as follows:]

JAMES DEUSCHLE: Good evening. My name's James Deuschle. I live at 7 Owl Creek Road. I live right across the ridge from the applicants' proposed facility. I have no problem with the concept that this noble cause that they have, that they're very well qualified. That's obvious from their résumé that's part of their original application. I think what's critical is not to lose sight of the main objection that I think most of the resident of this what is really a box canyon. There is only one way in and one way out and that's a private, very narrow road with trees growing in and rocks. You have to drive up it to appreciate it.

And it's a unique situation in that it's a private road and there's only some of us that have to maintain it due to the history of the way this thing was developed. Not all of the people that inhabit the canyon are legally required to maintain this road. I am and several other people are. We have a legal liability. There's a covenant that runs with our property to maintain this road. It has no guardrails. Occasionally it has bit pot-holes until it gets resurfaced. I'm not saying it's a super dangerous road but you can appreciate we have to maintain it. We're legally required.

So if we have commercial use and let's concentrate for a second on that. These people it's my understanding are going to charge \$15,000 a month for their clients. This is a business. Once you grant this variance if you do that anybody else who owns property in that canyon can make the same pitch and it could be for another noble cause. That's not – it's not a Not In My Back Yard syndrome; it's not on my private road syndrome. It is not appropriate to open this box canyon up to commercial development and I guarantee you it will happen if you do this and grant this variance. It might not happen tomorrow but it will happen in the future and it will be very difficult to stop it.

One last point. I'm running out of time, is that a statement was made about bad faith of the applicants. It's been brought to my attention there was an email sent out by the applicants to the family and friends stating that they wanted them to come out here in a show of force before you all to support them and to encourage contact with the Board of County Commissioners to persuade you all to vote for this variance. I think this is totally inappropriate. You also note that the email states that the supporters of the Heart's Way Ranch will be given a surprise gift of some kind. What I don't know; it doesn't state, but there's some sort of incentive to show up here tonight and raise a ruckus. Thank you.

[Previously sworn, Sandra Rowley testified as follows:]

SANDRA ROWLEY: I'm Sandra Rowley. Honorable Commissioners, my husband, Ken Rowley and I and our daughter and her husband own the entire northern border of the land between Susan Carter and Shari Scott's 40 acres. We have been their neighbors since January of 2016 and have welcomed them into our community. We can walk to each other's houses which has enabled us to get to know them very well. Susan and Shari are honest, forthright, trustworthy, intelligent and honorable. We enjoy their company and are very fortunate to have such extraordinary women as our friends, and they are always there when we need assistance.

When Susan and Shari moved in they tried to reach out to each and every property owner and tenant in our neighborhood to visit with them, inviting them to their home to discuss their plans. While they're our neighbors who embrace them and their project, only two other neighbors who signed the letter attached to Mr. Bank's appeal agreed to meet with Susan. The others who signed the appeal, the letter attached to the appeal. Have never met or been up to her property. How could they possibly have enough information to sign the letter attached to that appeal? And how do they know that the information that they do have is true?

She and Shari wanted so much to befriend their neighbors and be a positive addition to the La Barbaria neighborhood. So much misinformation has been spread about Susan and Shari and Heart's Way Ranch. For instance they are not proposing a treatment, rehab, or clinical facility. Two, assumptions have been made about their motivations being non-altruistic. How can someone say that about two women whom they've never met? They have no idea what their motives are. None of us know, can ever know, what's in another person's heart.

And then opposition claims that their four to six guests will be lighting fires and traumatizing the wildlife, when our own neighbors are throwing lit cigarettes, butts in the forest. I mean I've seen it. I have seen it many times. And are shooting guns to intimidate these single women. They have been harassed and treated very poorly by a handful of

very loud and ugly neighbors. When Susan and Shari paid their \$500 neighborhood road dues and asked that the dues be restricted only to road maintenance, the chair of the organization returned her check saying she, and I quote, "could not accept checks with restrictions on their use" because she knows the monies were being used to pay for an attorney to fight Shari and Susan and other uses that weren't specified in the road maintenance agreement.

This situation has gotten out of hand. Ken and I share a driveway with an opposing neighbor, who oppose Shari and Susan. After the Planning Commission approval, we had large rocks thrown in our driveway so we couldn't even drive down our driveway. Many times. Usually we just moved them but one day the rocks were so big that we had to get two met out in our neighborhood to come and move them from the driveway. Shall I stop? I've just got a few more sentences.

CHAIR ROYBAL: Just go ahead and just try to wrap it up.

MS. ROWLEY: Okay. It's just a little bit. Okay. Thank you. We have lived on our mountain for 19 years and want Susan and Shari to be our neighbors. We want them to own and operate their quiet place of healing right next door to us and the variances in question are perfectly fine just the way they are. Please, Honorable Commissioners do not override the Planning Commission's decision to approve the road variances. This is the issue and this is the only issue in question. Not the inflammatory remarks and assumptions that are being made about the impact that this non-threatening project will have on our neighborhood. Oh, please, let us get back to the caring, compassionate group of neighbors we used to be. Thank you.

CHAIR ROYBAL: Thank you. Okay, next.

[Previously sworn, Diana Rasche testified as follows:]

DIANA RASCHE: Hello, Commissioners. I'm Diana Rasche and I live at 9 La Barbaria Road. I'm a neighbor in the La Barbaria Canyon. I'm speaking to support Heart's Way Ranch in their strive to open their facility. I have to tell you that coming from the Midwest, the high fire danger of that area freaked me out, of course after we had bought the property. We hosted a meeting with Krys Nystrom, I believe is her name and with the wildlife fire people and I invited people from the neighborhood to attend that meeting. Susan Carter was the first one to walk in. I didn't see some of these other people. I posted a sign on the post boxes to let people know.

I would like Susan Carter to be my next-door neighbor because I tell you – and she's not; we're farther down the canyon towards Old Santa Fe Trail. Her property, if everybody in that neighborhood took care of their property like she has and like the owner before and did what they did in mitigating fuel for fires and ensuring that the property is safe, we'd be in the safest neighborhood in the whole area.

I guarantee there's neighbors up there that do not know what they're up to, and that's their right. A lot of people are friendly and a lot of people don't want to be bothered, but if everybody was like the people that own Heart's Way Ranch it would be a good place to be living, let me tell you. And a safe one. And they're going to be in a transparent bubble because that's the only way that they can function if they get approved. And I just want to ask you guys to approve their project. Thank you.

[Previously sworn, Jan Patterson testified as follows:]

1,000 gallons.

COMMISSIONER HAMILTON: Thank you. What's an order of magnitude?

CHAIR ROYBAL: Is the applicant here? Can we get the presentation from the applicant?

[Duly sworn, Oralynn Guerrerortiz testified as follows:]

ORALYNN GUERRERORTIZ: I'm Oralynn Guerrerortiz with Design Enginuity, and with me today is Michael Loftin, who is executive director of Homewise. Thank you for having us today. We're here for Tessera 2, which is the second phase of the Tessera project. We're located off of 599, just to the east of Aldea, to the west of Camino La Tierra, and this has been zoned as a planned development district under the County code.

What you have in front of you, Commissioners, was a power point presentation that I prepared too late to get it through the chain of command here so I'm so sorry, but what you'll see if you want to flip through it, and I'm sorry for the audience – I'm willing to show it to you at any time. But what you'll find in front of you is what I would have shown in that power point presentation.

Just past the zoning map which is the really pretty colorful purple one is what's out there today. The 88 homes, of which last count I heard and they've probably built a lot more since, they were down to 20 available lots. And the reason we're here today before you is the goal is to get this subdivision infrastructure in the mill and ready so that when Tessera 1 is completely built out Homewise can start selling homes in this, and they don't lose the momentum. This project is doing very well. It's a very popular project. It's very beautiful views and absolutely gorgeous. And I've got some pictures of the homes and the roads that are there today.

In phase 1, what they did was they built in essence all the main roads through Phase 2 and then they developed the houses on the north side. So the actual roadways that serve Phase 1, this long road here, this road here, and this one that connects over to Aldea, those are already in and being used today by people. They've got water; they've got sewer; they've got all the dry utilities already in these roadways.

The next picture is a Google map and it's kind of hard to see but you can see that there's a lot of homes already constructed in our project, and the following picture is a duplicate of the one I have here, showing you the development plan. We've got two archeological sites which are on permanent open space. We have 35 acres of open space which was a little more than 50 percent of the project. We have trails which are actually already installed. All the black lines – and they're kind of hard to see on this one – but all those black lines are trails that are dedicated for public use. They connect to the underpass under 599. They are being used by people who live in Aldea. We tried to design them so that people next door could easily access them. Anyway, they're already installed. I wanted you to know that.

We're going to be on County water. We're on a private sewer system. It's low pressure because we've got hills going up and down, and that connects and flows into the City's interceptor along the river, and so the sewage actually ultimately goes to the City wastewater treatment plant. We have plans for seven detention ponds that will be

centrally located in the arroyos in our project, and those ponds will mean there will be no on-lot ponding for the individual houses.

What else should I tell you about? We do agree to all staff conditions as presented. There are 12 affordable homes. We've scattered them through the development. The affordable housing agreement has already been approved by the BCC, and beyond that last picture that showed the affordable homes you'll just see photographs of the existing Tessera project and you'll see some beautiful homes that have been built by Homewise. Homewise is the developer. They build all the homes. They sell them here. And they've won awards on these homes. I don't know if any of you have seen them but they're absolutely beautiful homes.

And I think that's all I have to say and I'll stand for any questions you might have.

CHAIR ROYBAL: Commissioner Hansen.

COMMISSIONER HANSEN: Did the Homewise build Tessera 1?

MS. GUERRERORTIZ: What happened in Tessera 1 is Michael Hurlocker actually got that project approved and built it and then the economy tanked and he ended up losing it. And so Homewise purchased, I think out of the original 88 lots – how many did you get? About 72. They got 72 of those lots. Some of them Michael had already sold. So nearly all the homes in Tessera 1 were built by Homewise but not all.

COMMISSIONER HANSEN: By Homewise?

MS. GUERRERORTIZ: Yes.

COMMISSIONER HANSEN: And it looks like it's a much denser population in the back than it is in the front.

MS. GUERRERORTIZ: No, it's pretty much the same and I wonder why you have that interpretation.

COMMISSIONER HANSEN: Okay.

MS. GUERRERORTIZ: I don't think so. I think it's pretty much the same in general for the lot sizes. They're very comfortable lots with open space usually around – everybody has direct access to open space, usually.

COMMISSIONER HANSEN: So the other concern I have is does traffic go through Aldea?

MS. GUERRERORTIZ: It can. This road here connects to Aldea, and it's a way to get to their plaza, in fact, and it's secondary access for us, so we could use it in an emergency. There was some consideration about putting a gate here because traffic kind of speeds through because we don't have speed humps and I think Aldea does. But that was kiboshed because the newest code doesn't allow gates. So it's continuing to be an open access. We might want to put speed bumps on this road, frankly, or speed humps, because there are people kind of going through here trying to avoid the speed humps I think in coming this way. That's what I think, but I can't be sure.

COMMISSIONER HANSEN: I know that is a concern for residents of Aldea is the amount of traffic going to other subdivisions that go through their property.

MS. GUERRERORTIZ: Yes, I can imagine. From the Las Campanas area down.

COMMISSIONER HANSEN: I want to make sure that construction trucks and things like that will be coming in through 599.

MS. GUERRERORTIZ: Yes. Our construction trucks will come through 599 and through the Tessera entrance, our entrance right here. And we won't be coming through Aldea.

COMMISSIONER HANSEN: Okay. And also your water budget is .25?

MS. GUERRERORTIZ: .25 per home.

COMMISSIONER HANSEN: Okay. Do you think that's adequate?

MS. GUERRERORTIZ: I think that – I won't try to give my opinion on this in a rough way. I will say that people should live within a quarter acre-foot, yes.

COMMISSIONER HANSEN: And if they don't?

MS. GUERRERORTIZ: Then there are provisions in the County code to give them letters, and I think we need to do more than that but I'll leave that up to your discretion.

COMMISSIONER HANSEN: Okay. For the moment that's a few of the questions I had.

CHAIR ROYBAL: Okay, I don't think we have any other questions from the Board so I'm going to go on to the public. Is there anybody here from the public that would like to speak on this matter? Can I see a show of hands? One? Okay, sir, can you come up so that you can be sworn in?

[Duly sworn, Lyndon Searfoss testified as follows:]

LYNDON SEARFOSS: I'm Lyndon Searfoss and I live within the 500 feet of Tessera Phase 2 but I'm also the newly elected president of the board of directors of the Aldea de Santa Fe. So I'm here representing the part-time owners who couldn't be here whose houses directly abut Phase 2. We've had the plan since December 20th. We've looked at them and it looks to us like there's no technical violations.

CHAIR ROYBAL: Hold on one second sir. I wanted to also say on the record as well that we are going to have time – I think everybody else here is probably going to talk on the next case that will be coming up, so we will have a time limit of three minutes. So we'll go ahead and we'll start that with this one.

MR. SEARFOSS: I'm used to three minutes.

CHAIR ROYBAL: Thank you, sir.

MR. SEARFOSS: And Commissioner Hansen hit probably the things I was going to say, concerning traffic and construction. So at this point I haven't had any homeowner come to me with any serious objections.

COMMISSIONER HANSEN: Okay.

MR. SEARFOSS: Tessera Phase 1 is really a nice neighbor for Aldea. They've been very good. Thank you.

COMMISSIONER HANSEN: Okay. Thank you.

CHAIR ROYBAL: So that was the only public comment that we had so this is in District 1, which is my district, so I'd like to make a motion to approve and hope for a second.

COMMISSIONER MORENO: Second.

CHAIR ROYBAL: We have a motion and a second.

The motion passed by unanimous [4-0] voice vote.

VICKI LUCERO (Building & Development Services): Mr. Chair, can I just get clarification? Did that motion include staff's recommended conditions?

CHAIR ROYBAL: Yes it did. The motion included staff's recommendations. Thank you.

- VIII. A. 2. **BCC CASE #APP 16-5151 Heart's Way Ranch Appeal.**
Richard Bank, Appellant, is Appealing the Santa Fe County Planning Commission's Decision to Grant Heart's Way Ranch, Susan Carter, Property Owner, JenkinsGavin Design & Development Inc., Agents, Three Variances of the Sustainable Land Development Code (SLDC) to Allow a Retreat Facility Consisting of Two Casitas, a Yoga Area, and a Main Residence on 39.5 Acres. The Property Owner Requested a Variance of Chapter 7, Section 7.11.6.6 to Allow the Grade of the Approach at the Intersection to Exceed 5 percent, a Variance of Chapter 7.11.2, Table 7-13, to Allow the Overall Grade of the Driveway to Exceed 10 percent in Three Separate Locations in Order to Get to the Casitas and Main Residence, and a Variance of 7.11.2 Table 7-13 Local Road Design Standards to Allow Access from Offsite Roads that Do Not Meet Code Requirements. The 39.5-Acre Property is Located at 34 Sendero de Corazon, Via La Barbaria Trail, Within Section 9, Township 16 North, Range 10 East, SDA-3 (Commission District 4) [Exhibit 5: Planning Commission Staff Report; Exhibit 6: Letters Supporting Appeal; Exhibit 7: Applicant's Road Photographs; Exhibit 8: Applicant's Driveway Photos; Exhibit 9: Letters Supporting Application; Exhibit 10: Lofton Letter; Exhibit 11: Mr. Deuschle's Submission of Carter Email]

[Commissioner Anaya joined the meeting telephonically for this case.]

JOHN MICHAEL SALAZAR (Case Manager): Thank you, Mr. Chair. Richard Bank, appellant, is appealing the Santa Fe County Planning Commission's decision to grant Heart's Way Ranch, Susan Carter, property owner, JenkinsGavin, Design & Development Inc., Agents, three variances of the Sustainable Land Development Code (SLDC) to allow a retreat facility consisting of two casitas, a yoga area, and a main residence on 39.5 acres. The three variances are of Chapter 7, Section 7.11.6.6 to allow the grade of the approach at the intersection to exceed 5 percent, Chapter 7, Section 7.11.2, Table 7-13, to allow the overall grade of the driveway to exceed 10 percent in three separate locations in order to get to the casitas and main residence, and Chapter 7, Section 7.11.2 Table 7-13 Local Road Design Standards to allow access from offsite roads that do not meet Code requirements. The 39.5-acre property is located at 34 Sendero de Corazon, via La Barbaria Trail within Section 9, Township 16 North, Range 10 East, Commission District 4, SDA-3.

On August 25, 2016, the applicant presented three variances to the Hearing

Officer for public hearing. The variances were mentioned in the caption, Mr. Chair. The Hearing Officer in support of the application memorialized her findings of fact and conclusions of law in written order in which she recommended approval.

On September 15, 2016, the Santa Fe County Planning Commission met on this case. The decision of the Planning Commission ended in a vote with three members voting in favor of the motion to approve the request, and two members voting against the motion. Under Chapter 14, Section 14.9.7.4 of the SLDC, a variance may be granted only by the majority of all the members of the Planning Commission. A minimum of four members approving it were needed. It was only three at the time. A second motion was then made to reconsider the first motion, again, it was a three to two vote.

A third motion was then made to table the request until the sixth Planning Commission member was present. That motion passed by three to two. This was tabled until the October 20th meeting. With a majority present the commission approved all three variances by a 4-2 vote. Those minutes are exhibits in your packet.

The property is, as mentioned, is 39.57 acres. It sits within the Rural Fringe Zoning area as defined by the SLDC. Chapter 8, Section 8.6.3. of the SLDC designates a retreat as a permitted use within the Rural Fringe Zoning District. The applicants' agent submitted an application for a site development plan to request a retreat. It was discovered after submittal that the approach to the intersection exceeded grade requirements of 5 percent for 100 linear feet and the grade of the driveway is 17 percent-21 percent in three locations. Permits were obtained in 1994 for a driveway with grades up to 14 percent. The approval was granted in accordance with the Extraterritorial Zoning Ordinance which allowed for grades of 15 percent. It is worth mentioning that the driveway was not constructed to the approved plans, however.

Building and Development Services staff reviewed the Site Development Plan for compliance with pertinent SLDC requirements. The driveway grade of 5 percent for 100 linear feet upon an intersection and the overall driveway grade to get to the casitas and main residence exceed the required grade of 10 percent, and offsite roads do not meet the 20-foot driving surface. La Barbaria trail is a basecourse surface with a minimum width of nine feet and a maximum width of 18 feet. The driveway that accesses the site is 14 feet in width with a base course surface and has pull out locations. Improvements were done for fire protection to include pull-outs, and two 10,000-gallon water storage tanks with a draft hydrant that was placed at the main residence.

Briefly, and the appellant can go deeper into what he mentions in his letter. Regarding the first variance to Chapter 7, Section 7.11.6.6, which does not allow the grade of the approach at an intersection to exceed 5 percent, Tortuga and Sendero de Corazon, he measured the grade at 16.5 percent and the intersection at Tortuga and La Barbaria Trail where he measured this grade at 15 percent. Regarding the second variance to Chapter 7, Section 7.11.2, Table 7-13, the appellant states at least a quarter of the driveway has an average grade of 17 percent making the distance 70 percent steeper than the SLDC allows. The appellant also states regarding the third variance to Chapter 7, Section 7.11.2 Table 7-13, Local Road Design Standards to allow access from offsite roads that do not meet Code requirements, due to width of the roadway not just to La Barbaria Trail but including La Barbaria Road, which one must take to get to La Barbaria Trail, there have been numerous mishaps with motorists and these steep, winding roads

and additional traffic could increase the risk even more. The appellant also states the fact that the subject property is located within an extreme wildland-urban hazard area and that there are fire dangers inherent within such a designation.

The applicant had addressed the variances for the Planning Commission. That's in your reports. Staff response to the applicants' review criteria response is in your reports as well along with fire review comments. Vicente handed out letters of opposition from people in the neighborhood along with the Planning Commission packet from September with all the exhibits and the staff report. So that was handed out to all of you.

Recommendation: Staff recommends granting the appeal and overturning the applicants' approved variances of Chapter 7, Section 7.11.6.6 to allow the grade of the approach at the intersection to exceed 5 percent; Chapter 7, Section 7.11.2, Table 7-13 to allow the grade of the driveway to exceed 10 percent; and a Chapter 7, Section 7.11.2 Table 7-13 Local Road Design Standards to allow access from offsite roads that do not meet Code requirements.

The Hearing Officer and Planning Commission approved the variances because they believed that the applicants met the variance criteria. If the Board decides that the applicant has met the variance criteria they may adopt the findings of the Hearing Officer and Planning Commission.

An appeal of the decision of the Planning Commission shall be reviewed de novo by the Board per Chapter 4, Section 4.5.4 of the SLDC and the Board may also make their own findings and conclusions. Mr. Chair, I'll stand for questions.

CHAIR ROYBAL: Do we have any questions from the Board?

COMMISSIONER ANAYA: Mr. Chair.

CHAIR ROYBAL: Go ahead, Commissioner Anaya.

COMMISSIONER ANAYA: So, Mr. Chair, the Planning Commission heard all the testimony and the feedback regarding the case and voted 4-2 to approve the variance. Is that my understanding?

CHAIR ROYBAL: I believe so. John, can you clarify?

MR. SALAZAR: Mr. Chair, Commissioner Anaya, that's correct. Initially in the September Planning Commission of last year there wasn't a majority to approve it so it was tabled until the October meeting and in that October meeting in a 4-2 vote they approved the variances for the applicant.

COMMISSIONER ANAYA: Mr. Chair and Mr. Salazar, you made a comment relative to the road not being built to what they said they were? What was that all about?

MR. SALAZAR: Mr. Chair, Commissioner Anaya, La Barbaria Road and La Barbaria Trail, they're existing roads that do not meet the requirements as set for in the SLDC. The driving surface on some of the areas is 20 feet and it's still not wide enough. The right-of-ways are platted. It is platted right-of-way. In order to make those roads wider you would have to buy more right-of-way to meet the SLDC requirements.

COMMISSIONER ANAYA: I understand La Barbaria Road and the Trail but did you say something about in their property that they were supposed to do something or was that La Barbaria Trail?

MR. SALAZAR: Mr. Chair, Commissioner Anaya, that was the driveway when they came in initially for their permits for the structures on the property.

COMMISSIONER ANAYA: So they did not do anything to their property? I understand La Barbaria Road but did they do what they said they were going to do on their driveway?

MR. SALAZAR: Their driveway was not built out to the plans. No sir.

COMMISSIONER ANAYA: Is the applicant there? Why?

MR. SALAZAR: Mr. Chair, the applicant is present, the property owner and their agent.

COMMISSIONER ANAYA: So I guess that's just one question. They turned in plans to us. Why didn't they build them to what they said they were?

CHAIR ROYBAL: I guess that question will probably be answered a little bit later so we'll keep that question. Is there any other question from other Commissioners?

COMMISSIONER HAMILTON: Yes, Mr. Chair. I have a question.

CHAIR ROYBAL: Commissioner Hamilton.

COMMISSIONER HAMILTON: So one of the issues that you've described is general fire danger and I assumed in fact the question extends to general emergency response. The Fire Department responds to wildland fires and structure fires and medical issues as well so access is an issue. I saw in the packet materials just with regards specifically to structure fire the applicants have agreed to put in a sprinkler system but I wonder if there's staff that might elaborate a little on any information with regard to the broader emergency response issues that are associated with these road variances.

MR. SALAZAR: Mr. Chair, Commissioner Hamilton, the Fire Marshal is here and he can address those.

COMMISSIONER HAMILTON: Thank you.

JAOME BLAY (Fire Marshal): Mr. Chair, Commissioner Hamilton, do you want me to elaborate on –

COMMISSIONER HAMILTON: Yes, please.

MR. BLAY: Just so you know, this was – I just became the County Fire Marshal so I'm a little bit new to this particular case but from reviewing the packet I just realized that all the – I believe there are two casitas, one main house and one guesthouse, they're all fully sprinklered. I believe they have two 10,000-gallon water storage tanks for manual firefighting. I believe that they increased the width of their driveways to the 14-foot requirement that Tim Gilmore, he was the fire inspector that reviewed this particular case – he required them to do that and it looks like they did increase the width to 14 feet.

The gate was also increased to 14 feet, so basically, as far as fire protection they have met with the code requires.

COMMISSIONER HAMILTON: Is there other discussion of general access in bad weather, for example, with non-four-wheel drive vehicles? Because in that area, that area is responded to by Hondo and then the bigger eastern region and I know the med unit is not four-wheel drive. Eldorado has the only four-wheel drive ambulance and it would have to go on a second call. And then the issue of the actual fire truck in bad weather. So was that discussed at all? Do you have any input on that?

MR. BLAY: I mentioned if that was discussed. I did a site visit today, this

afternoon. The roads were muddy. There was a little bit of snow still on the ground and I did leave my Chevy Colorado in two-wheel drive all the time and I got to every single casita and the main residence with no problem.

COMMISSIONER HAMILTON: Well, I do have one other question. It's not regarding fire. It's regarding the traffic situation. I don't know if these are individual concerns. They were mentioned and I only got to breeze through quickly the documents we were just handed, but my understanding was that there was a traffic study done and there was some finding of fact in this, but there's some concern that this would increase traffic. Could we get some clarification?

MR. SALAZAR: Mr. Chair, Commissioner Hamilton, Public Works, after doing that initial study felt that a traffic impact analysis wasn't warranted. So the applicant for the site development plan was not required to provide a TIA.

CHAIR ROYBAL: Did you have any additional questions, Commissioner Hamilton?

COMMISSIONER HAMILTON: Not at this time. Thank you.

CHAIR ROYBAL: Commissioner Hansen.

COMMISSIONER HANSEN: There was a traffic study done by Walker Engineering. Is that correct? Or am I – no? Okay.

MR. SALAZAR: Mr. Chair, Commissioner Hansen, it was a trip generation report.

COMMISSIONER HANSEN: Okay. A trip generation –

MR. SALAZAR: By the Public Works Department. It's because they've been improving that road over the years as money comes in.

COMMISSIONER HANSEN: So with that trip generation, does this facility create more traffic or less traffic in the fact that they are a retreat facility as opposed to having a residential – people living there. If each casita was rented and the home was rented, what's the weight? Is there more traffic from the retreat facility or is there more traffic from the residential?

MR. SALAZAR: Mr. Chair, Commissioner Hansen, Public Works believed that the traffic would stay the same because the guests for the retreat wouldn't be bringing their personal vehicles. It would be the vehicles that are already on the property, the vehicles for the property owners.

COMMISSIONER HANSEN: So no person that's coming to stay at this retreat, treatment center would be driving to this facility. They would all be shuttled in?

MR. SALAZAR: That is what the applicant is proposing, Commissioner Hansen.

COMMISSIONER HANSEN: Okay. For now, that's –

CHAIR ROYBAL: Commissioner Moreno.

COMMISSIONER MORENO: Thank you, Mr. Chair. Some of the concerns were about fire danger and the variability of climate. How were those addressed in your evaluation of this project?

MR. SALAZAR: Mr. Chair, Commissioner Moreno, when the site development plan came in we forwarded it to the Fire Marshal's Office for their review, especially understanding that this is located within a wildland hazard urban area. I believe – I don't know that it's extreme but I think it's moderate on their map. The Fire

Marshal's Office, when they send us a response there's a form letter that they send us and it does address things that must be done within those hazard areas. They do that for every property that we send for review.

COMMISSIONER MORENO: How frequently do they do those evaluations; annually?

MR. SALAZAR: Mr. Chair, Commissioner Moreno, I don't know how recent that map has been updated. I've been here for 15 years and they've been using that same map for a while now.

COMMISSIONER MORENO: Thank you.

COMMISSIONER HAMILTON: Mr. Chair.

CHAIR ROYBAL: Commissioner Hamilton, you had another follow-up question?

COMMISSIONER HAMILTON: Well, I have a comment and question. I think this area is a substantial – it is in my district and it is a substantial urban-wildland interface concern. What it's formal designation is aside. As a volunteer firefighter in a neighboring districts we've had many conversations and with the County Fire Chief about that area being an interface concern. Also in the staff response, if you read the beginning of the first paragraph, although tenants have moved in and out of the casitas this area is an extreme wildland fire hazard area. During inclement weather and on slopes in excess of 10 percent emergency access may not be possible due to the severity of the steep slopes. And that's a finding that's contributory to this decision. But it's not entirely consistent with what we just heard from the Fire Marshal. So I'm a little bit at a loss about how to reconcile those two issues.

CHAIR ROYBAL: And did you have any other comments?

COMMISSIONER HAMILTON: Unless the County staff maybe has some direct – or the Fire Marshal has some comment on that.

MR. BLAY: Mr. Chair, Commissioner Hamilton, I believe it's rated as an extreme wildland urban hazard area and therefore they were required to do a vegetation management plan which they have done on their property.

COMMISSIONER HAMILTON: That's good to here, but with regard to the findings of facts relevant to the slope of the roads, which the variances are addressing and access for emergency vehicles, there seems to be a difference of opinion between what's written here and what we're talking about. So that's was what I was really interested in.

MR. BLAY: Like I said, I did a site visit. My vehicle was always on two-wheel drive and I had no problem getting to all the different areas. As far as an engine, we would have to take an engine and find out if an engine full of water would be able to go up that grade. Maybe that is the reason why the former Fire Marshal, he required them to have two 10,000-gallons storage tanks on top with a draft fire hydrant as well as a hose reel that would connect to those tanks. So in theory they would not even need a fire engine up on top.

And as far as medical emergencies, our ambulances, I don't know which ones are four-wheel drive and which ones are two-wheel drive but being smaller than an engine I would assume that they would be able to go up the hill the same way that I did today. But that would have to be done by taking an ambulance over there and find out.

COMMISSIONER HAMILTON: Just for the record, Eldorado Med 3 is four-wheel drive; Hondo Med 80 is not. Or County Med 80 is not.

MR. BLAY: Thank you.

CHAIR ROYBAL: Did that answer your questions, Commissioner Hamilton?

COMMISSIONER HAMILTON: Yes.

CHAIR ROYBAL: Okay, did we have any other questions from the Board? Commissioner Moreno.

COMMISSIONER MORENO: Thank you, Mr. Chair. You said that there's an evaluation of the fire risk and who looks at those reports and would that be your office?

MR. BLAY: It would be the wildland department within the Fire Department.

COMMISSIONER MORENO: Okay. And is the process in place already for that purpose?

MR. BLAY: Correct. The County adopted a wildland urban interface code that goes along with the fire code as well as the SLDC and that is what requires the width of the roads to be 14 feet, as opposed to 12 feet otherwise. Also to have that vegetation management plan in place and I believe it is what also requires extra fire protection.

COMMISSIONER MORENO: And what happens if a property owner hasn't complied with the wildland protocol? Do you cite them, if they're not maintaining their property so that their houses and property don't burn down?

MR. BLAY: If it's a new property, obviously, it's not going to be allowed to be built unless they are abiding by the current code. If it's an existing residence and they are in that extreme wildland urban interface area, yes, we would have to cite them and put a stop-work order. But if they do what the code requires, in this case which is to widen the driveways to 14, have turnouts, have turnarounds, which they have done also, and installed the fire protection system in all the buildings they are meeting the wildland urban interface code.

COMMISSIONER MORENO: Thank you. Thank you, Mr. Chair.

CHAIR ROYBAL: Commissioner Hamilton, did you have any additional questions?

COMMISSIONER HAMILTON: I'll wait.

CHAIR ROYBAL: Okay. I think that was it from the Board as far as questions. I just want to remind the public again that we'll have a three-minute comment time limit. I would ask that we try not to be repetitive and also just say that this will not apply to the applicant or the appellant. So we're going to go ahead and have the applicant come forward and the appellant as well. And if you could please state your name for the record and be sworn in.

[Duly sworn, Richard Bank testified as follows:]

RICHARD BANK: Let me clarify some things, based on the questions that were being asked. The Fire Marshal is correct regarding the property itself with respect to meeting the requirement that the Fire Department set, but La Barbaria Trail, which unfortunately has to go – you have to go up that to get to that property has widths of only nine feet which allows only very limited access for firefighting equipment. That's

our concern. That's my concern and I think that's your concern.

So while the property is pretty safe, at least the structures, a wildfire can be dealt with and emergency access is quite limited because of La Barbaria Road or Trail. La Barbaria Road too, for that matter.

Let me read – this is from the Santa Fe Fire Department, Fire Prevention Division. This was the official development review done July 13th by Inspector Gilmore. He says that it's approved but they have to do everything that's underlined. And let me read one of the things that is underlined. Roads shall meet the minimum County standards for fire apparatus access. Roads of a minimum of 20 feet wide. There is not a single inch of La Barbaria Trail that's 20 feet wide, so that's the problem. It's not the problem with the land itself but the problem with access to the land on the private road. So that's – I hope that helps.

The other thing about fire that I would point out is those tanks were installed before the current owners were there so it was done by the previous landowner, at least that's my understanding.

As for traffic, that's controversial and I'll speak to that specifically in my remarks, but I don't think it's a done deal nevertheless.

The first think that I wanted to do is update you on the map, this map. I don't know if you have color. You probably have gray scale. But this is the map that shows from the neighborhood all of the 19 parcels that are accessed by La Barbaria Trail. At the time that I submitted the appeal there were 11 of 14 folks who had opposed the variances. We have a couple more now and just to make sure that you're up to date there was a letter hand delivered to you by the Sheltons yesterday or at least to your staff. I don't know if you have that letter but if you don't I have a copy of the text which I can give you. The letter was dated January 4th from Jay and Katherine Shelton.

COMMISSIONER HAMILTON: Yes, sir.

MR. BANKS: You have that one. There was a second letter written by Willa Shallit dated January 5th. I'm not sure if she – do you have that one too? All right. So what we have then now is of the 19 property owners 16 have taken a public, formal position on this issue. Three have not. Of the 16, 13 now oppose the variances and support my appeal. So that's over 80 percent of the people that have taken the position oppose this retreat and my map you can see it's really pink. Yours will be dark. But the parcels owned by the Sheltons and Willa Shallit are parcels 13, which there are two of those, and parcel #12.

My voice is weird so please bear with me. Winter weather. The Sustainable Land Development Code is a lengthy document that by its own words is intended to be comprehensive and integrated suggesting to me and others that variances should require extremely exceptional circumstances. More on that in a moment. The simple fact here is that permitted uses in the code should be subject to safety standards and it's safety standards that Heart's Way Ranch wants you to waive. Consider for example the speed limit on La Bajada Hill, 75 miles per hour, which is in a sense the permitted use. Except where there's ice or snow on the road. When there's ice or snow on the road, safety takes precedence over permitted use. Safety should always take precedence over permitted use.

That was the staff's conclusion in the first round when they originally recommended denying the variance. They have repeated that recommendation here and I

suspect frankly that they are as surprised as I am that Heart's Way Ranch has made it this far. Perhaps the explanation lies in part in the fact that the principals and the representatives of Heart's Way Ranch have been operating in bad faith from the very beginning. As noted in my appeal, my wife and I were never contacted by the applicants despite the vigorous claim made by Ms. Jenkins that the applicant "reached out to every single one of their neighbors in this community."

No sign was ever posted on the public road as required by the code and the applicant was less than forthcoming in securing a waiver of the traffic impact study. They now offer a traffic impact study of their own, which literally makes no sense. I don't understand how Walker Engineering can make a comparison between three residences on the one hand and one residence and a four-room resort on the other when its data for the resort is so strikingly incomplete. But even assuming that there is some basis for the conclusion stated in its letter, the comparison must only involve guests at the resort and not the commuting employees. After all a resort will have someone at the front desk. They'll have a cleaning staff, a maintenance crew, a pool boy, servers, a bartender and daily deliveries likely as well.

Similarly, the assurances offered by Heart's Way Ranch of no additional traffic impacts completely ignores the traffic to be generated by practitioners and service providers, that is people coming up to service their clients. While they probably won't need a bartender they will have to satisfy the therapy and amenity expectations of clients spending \$15,000 a month.

Finally, once the variants are granted there is no guarantee that the clients will not be allowed access to their vehicles and no limit on the number of clients that will be served. But more telling, more telling, is what can only be described as intentional efforts to mislead the hearing officer and the Planning Commission at the public hearings. First, the land use staff mistakenly reported before the hearing officer that the grade of La Barbaria Trail met code requirements. I attempted to correct that error in my testimony referring to the big hill, the same big hill that is described in my written appeal and the grade of which is documented in the survey attached to that appeal.

Here is Ms. Jenkins rebuttal to that comment. "The big hill that was referenced, I was unfamiliar with that particular part of La Barbaria Trail and I've learned that this is beyond where Camino Tortuga forks and heads to the subject property so that no guest of the ranch would go that far down La Barbaria Trail." This statement is patently false. Anyone traveling to or from Heart's Way Ranch must negotiate the big hill. Perhaps Ms. Jenkins was genuinely confused. Perhaps she has never actually been to the subject property but she made this statement in front of the principals, both Dr. Scott and Ms. Carter as well as their attorney and no one bothered to correct her.

So the hearing officer believed that there was no grade problem, no grade variance required on La Barbaria Trail. And apparently Ms. Jenkins has not yet accepted the reality of the big hill. In her response to my appeal she simply repeats the mistaken testimony regarding the grade of La Barbaria Trail. "The only variance required relates to the width of the existing easement and roadway."

Second, when Ms. DeVargas from the County Fire Prevention Division told the hearing officer that the applicant had agreed to all the requirements addressed in Inspector Gilmore's July 13th letter, requirements which as I read to you earlier cannot be

met on La Barbaria Trail. There is no way in a 20-foot easement to create a 20-foot roadway that meets the grade requirements. So when Ms. DeVargas said that the applicant had agreed to all the requirements, neither the principals nor their representatives rose to correct that error.

Finally, before the Planning Commission, Ms. Jenkins again claimed that the Fire Department had approved the project, omitting the fact that its approval was contingent upon conditions which can never be satisfied. While we surely have different opinions about this matter it seems to me that we all have an obligation to the truth.

These two instances are critical because the order issued by the hearing officer was predicated on two falsities. One, that there was no grade problem with La Barbaria Trail and that road is a steep road, as documented in my appeal documents and the survey that's attached to them. And two, that the Fire Department had approved access for its firefighting equipment up that road which never happened.

As to the new claim that none of the clients of the ranch will be the hard-core addicted smokers predicted by the statistical evidence Ms. Jenkins taken by Heart's Way Ranch and its supporters before the hearing officer. This is from her response to my appeal. "A person who chooses to smoke would not choose a non-smoking property on which to stay when there are other options that allow a person that option." Yet the bulk of the testimony before the hearing officer, both written and verbal and offered let me note almost entirely by non-residents of La Barbaria Canyon, most of that testimony spoke to the desperate need for a retreat like Heart's Way Ranch because of the lack of alternatives. So where are the recovering addicts who smoke going to go and who are we supposed to believe?

Perhaps we should trust the words of the late Chief Justice of the New Mexico Supreme Court, the Honorable Pamela Minzner. Writing for the Court of Appeals in *Downtown Neighborhood Association v. Albuquerque* she says the following: "Variances should be granted sparingly. Only under exceptional circumstances. To do otherwise would encourage destruction of planned zoning." And here she cites *Clauser v. David*, an interesting federal case worth a brief summary and brief swallow of water.

The original plaintiff in *Clauser* purchased a residential property with the intention of converting it into a commercial law office. He then fixed up the place while seeking the necessary variance, claiming he would go bankrupt if the variance was not granted. The court in that case said the following: "Hardship if any has resulted solely from the appellee's appropriation of the property for commercial purposes without first having obtained the necessary change in zoning." Sound familiar? The original applicant in this case acquired a residential property with the intention of converting it to commercial use without first securing the necessary variances. As noted in my written appeal, hardship if any must be understood here to be self-inflicted as it was in *Clauser*.

But the more interesting question is what exactly is the hardship the applicant claims. She wants you to believe that in order to bring the roads into compliance she will have to spend a great deal of money and tear up a great deal of the countryside. But the fact is she has no legal authority to widen the 20-foot easement to widen the 20-foot easement of La Barbaria Trail or to cut and fill beyond that 20-foot limit. And because of the mountainous terrain it spans there is absolutely no way to create a 20-foot roadway meeting the grade requirements within that easement. No way, in other words, to bring

that road into compliance with the fire code or the safety standards of the SLDC.

So I ask again, what exactly is the hardship the applicant claims? Denying the variances will not burden the residential character of the property she purchased in any manner, so it can only be that she won't be able to establish her commercial retreat. But no one with property along La Barbaria Trail can establish a commercial retreat without securing a variance for La Barbaria Trail, hence there is absolutely nothing exceptional about the applicants' position or property.

The SLDC allows variances only where extraordinary and exception situations or conditions of the property result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner. This from Section 14.9.7.1. And a variance is defined as follows: Permission to depart from this code when because of special circumstances applicable to the property strict application of the provisions of this code deprive such property of privileges enjoyed by other property in the same vicinity or zone. This is from page A-43.

The purpose of this provision, the purpose of the doctrine of exceptionality is to remedy an exception, not to create one. But granting the applicant the variances she seeks will do exactly that, namely create an exception, and owing to the SLDC's definition of variance, every property owner in similar circumstances, not just along La Barbaria Trail, but in all other rural fringe zones in the county must be granted the same privileges afforded the applicant. In other words the precedent set by granting the variances in this case will permit all property owners in all rural fringe zones to disregard the road safety standards in both the SLDC and the fire code when proposing a permitted commercial development. This kind of precedent is just what Justice Minzner meant in Downtown Neighborhood when she warned of the destruction of planned zoning.

So more than just the integrity of this process thus far is in question, the integrity of the SLDC ordinance itself is at stake.

Knowing the applicant to pick and choose among the provisions of the code undermines the intention of comprehensive and integrative planning. Apparently, fostering the vitality of local businesses is the lone purpose of the code that interests her. Never mind that granting the variances sought by Heart's Way Ranch does not promote the safety and welfare of county residents with potentially devastating consequences for the surrounding property, the county and the region. La Barbaria Trail is a steep, narrow road which restricts access to all but the smallest firefighting vehicles while the threat of wildfire already extreme in La Barbaria Canyon will be significantly exacerbated by a commercial operation that by its very nature and design will attract and house hard-core addicted smokers from out of state.

CHAIR ROYBAL: Okay, you guys. Let's give him some respect.

MR. BANK: I hope you've read my documents and the research that I've presented there. Ms. Jenkins claims that they're only going to have non-smokers. That creates its own set of problem but even if they're able to do that, which doesn't seem likely, they're going to have to search everyone every day. Where was I? Moreover, the likelihood of increased traffic, and I refer again to the service providers coming to and from, commuting to and from the retreat, the likelihood of increased traffic, which brings inherent risk to vehicles and pedestrians alike, especially given the steep, narrow and twisting character of the roads will also have adverse effects on air quality and climate

change, contrary to the ethic of responsible ecological development apparent throughout the stated purpose and intent of the code. And these risks and adverse effects will only be magnified if the variances are approved, thereby opening up an environmentally sensitive neighborhood to increase commercial development which in turn would directly compromise the zoning regime of the SLDC.

As for the applicants' reliance on economic impact to satisfy the mandate that a variance observe the spirit of the code, Mr. Graeser, speaking before the Planning Commission, succinctly captured the dilemma faced by the applicant. "Either it's a business that's going to provide jobs for a lot of people, in which case there's going to be a lot of traffic going up that road, or there's not going to be a lot of traffic going up that road, but then it's not going to have much of an economic impact. You can't really have it both ways."

So I trust that you've read my appeal documents and I won't burden you with more repetition, but I will remind the Board that this is a de novo review and as such, the burden of proof again lies with the applicant for the variances. She must demonstrate all of the following. One, that her proposed retreat does not pose risks of increased traffic on substandard roads. Two, that it does not impose an increased danger of wildfire. Three, that the residential property that she purchased has exceptional characteristics that justify the sacrifice of the road safety standards embodied in the SLDC and the fire code. Four, that the use of her property solely as residence constitutes a hardship akin to a legal taking. Five, that her proposal taken as a whole observes the spirit of the SLDC, and six, achieves substantial justice. Failure to establish any of the foregoing constitutes grounds for denying the variance. Indeed, according to the letter of the code, failure to demonstrate any one would compel denial. Thank you guys for your attention. I was a little disrupted but I can live with that, and I stand for and welcome questions and would respectfully reserve a right of rebuttal.

CHAIR ROYBAL: Okay, do we have any questions from the Board for him? Not at this time, sir. Thank you.

COMMISSIONER HAMILTON: Thank you very much.

CHAIR ROYBAL: If we could have the applicant.

[Duly sworn, Jennifer Jenkins testified as follows:]

JENNIFER JENKINS: Good evening, Commissioners. My name is Jennifer Jenkins. I'm with JenkinsGavin and I'm here on behalf of Susan Carter and Dr. Shari Scott, the applicants in the Heart's Way Ranch variance applications. So I would like to – I'm just going to do a brief overview of the site development plan request that has already been reviewed and approved by the Growth Management Department and try to keep it as brief as I can, and then my clients, Ms. Carter and Dr. Scott will have a few things to share as well, and then we will wrap it up, trying to keep it as brief as we can. So I'm just going to pull up some visual aids real quick.

So this is an area of the La Barbaria Trail, an area of the La Barbaria Trail neighborhood. So this is La Barbaria Road, which you access directly off of Old Santa Fe Trail and La Barbaria Road comes out here and then it ends up into a large ranch property here. This is La Barbaria Trail here that leads into the neighborhood. La Barbaria Trail was established in a 20-foot easement in the early 1980s which was very common for kind of semi-rural access roads into subdivisions. A 20-foot easement, you see them all

over the county. And so that is an existing condition and the roadway varies, as was stated, from about at its narrowest points of nine feet all the way up to 18 feet in width on the established roadway.

So what I'm going to pass out now are actually some photographs of the road so you can just get a sense of the roadway itself. And as you can see the roadway is, yes, it is a mountain neighborhood. It's a mountain road and it is in quiet excellent condition and is cared for quite well by the road association in the neighborhood as far as road maintenance and make sure the road is safe and passable.

With respect to the variance requests, with respect to La Barbaria Trail, it is a function of the width. We have an existing 20-foot easement. As was accurately stated, we have no rights to increase the width of that easement in order to accommodate a 20-foot drivable surface. In the memos that we have from the Fire Department it is standard language that the Fire Department always requests offsite roads with a minimum of a 20-foot drivable surface but the Fire Department recognizes that that is not always possible. So they have to look at it in the context of the situation. And so what has been agreed to to compensate for the fact that we have an existing 40-year-old roadway that does not meet current standards, there are certain compensations that can be made to ensure life safety. And so that is what we worked very closely with the Fire Marshal's Office to ensure life safety on this property.

So what we have in place right now is my clients purchased the property in January of 2016. So they've owned the property just about a year. The existing structures on the property – actually let me pull up the map here. Let's just talk about the property. So the subject property is located here on this map. So now we are zoomed in and the property comprises a 3,600 square foot main residence, and these are the two casitas. They're each 1,100 square feet and there's a small little workshop space here. The property was improved and developed in 1994 and at that time the driveway, which is Sendero de Corazon, was permitted. And this was done under the Extraterritorial Zoning Ordinance, which was the governing land use document for this part of time in 1994. And this goes to Commissioner Anaya's question regarding the driveway construction at that time.

At that time driveways were permissible to be up to 15 percent in slope; the grade of the driveway could go up to 15 percent. The permit drawings that were submitted at that time, in 1994 for the driveway showed a maximum slope of about 15 percent. So as we researched this in collaboration with Land Use staff we discovered that when the driveway was constructed they didn't build it completely in accordance with the permitted plans at that time, in 1994. So we have some areas of the driveway that exceed the 15 percent that was permissible at that time and that also exceed the new regulation which is driveways should be a maximum of a 10 percent slope. So currently about 20 percent of the driveway, there are segments that exceed a grade of 10 percent.

In 2012 – these are actually images of the driveway serving the property itself – in 2012 Mr. Lofton, who was the owner of the property at that time, made some very significant improvements to the property. One is he did significant improvements to the driveway to ensure that there's a minimum of 14-foot width of that driveway, which is the requirement. It's the current code requirement that driveways must be a minimum of 14 feet, and in addition, Mr. Lofton worked closely with the Fire Marshal's Office to say

what do I need to do to ensure that my property is safe? My property is accessible? And I want to be the safest property in the area. How do I do that? And he received guidance and counsel from the Santa Fe County Fire Marshal's Office. And in response to that he developed pullout areas in accordance with fire code that would allow vehicles to pass one another. So if an emergency vehicle is attempting to access the property there are designated pullout areas which you can see in the images that I've shown you that would easily accommodate cars passing one another. And there are a series of five of those as you go up the driveway. Then when you get to the top of the driveway at the main residence, not only is there an emergency turnaround, so there is no need to back out, there are also two 10,000-gallon storage tanks of water connected to a draft hydrant up at the main residence.

So those improvements were in place when my clients acquired the property a year ago. Subsequent to that, in reviewing the application with the Fire Marshal, in recognition of we have an existing condition of La Barbaria Trail. It's well maintained road, it's a very passable road, but it's an old, narrow mountain road. And in consideration of that the Fire Marshall added additional conditions of approval, two of which are that the main residence and those two casitas must be equipped with automatic fire suppression or sprinkler systems, which is another common terminology. And what that does is that buys the Fire Department time. That if there is any kind of fire those sprinkler systems will go off and that fire will be put out.

There were also a couple areas where the Fire Marshal requested that the turning radius in a couple of areas where the driveways go off to the casitas, that those be widened out and improved and we said, absolutely. We're happy to do that. In addition, there was a requirement for a vegetation management plan, which is required when you're in a wildland area. My clients have already met with the wildland staff at the Santa Fe County Fire Department and they were incredibly pleased with the state of the property. There's a few areas where some vegetation needs to be trimmed back in terms of its proximity to structures but that work is already underway. We've already had that meeting.

So we have gone – there already were significant measures in place to ensure life safety and additional measures as a result of this application are going to be in place. Everything on this property is here. There is no new development. We have a main residence and we have two existing casitas that have historically been rented full time. Full time residents in three homes. That is not what we're proposing today. And as was stated, the Public Works Department felt that because of the nominal level of traffic that was predicted that a traffic impact analysis was not necessary for the site development plan application.

However, we thought it was worthwhile to look at – how would you compare three residences that are occupied with what we are proposing. So for the purposes of developing a traffic study the first place you go is to the Institute or Traffic Engineers, or the ITE, and they establish the trip generation numbers. If you've got 1,000 square feet or retail or you have a restaurant or you have an office building, there are national standards for how much traffic those uses generate. So they have all the land use categories. So you find your land use category, you find your square footage and then it tells you how much traffic is going to be generated.

So they don't have a category as a retreat. It's just not something they have. This is unusual. So we said, well, what's the closest approximation that we could use and we thought, you know, maybe like a resort hotel, something of that nature. And as we reviewed all the land use categories that felt like the closest approximation. And what the ITE takes into account, for example if you're looking at something like a bed and breakfast or a hotel or something they don't just take into account the guests, they take into account any staff that would be associated with that operation. So we have four – each casita has two bedrooms, so we have a maximum capacity of four to six women could temporarily reside at the property at any given time, temporarily.

As has been stated in the materials that you have, these women will not have their own cars. They will not have their – they are not getting up in the morning and going to work. They are not going to the grocery store. They're not coming back and then going out to meet friends for dinner. They're not going back and forth. It's a really important distinction.

So we looked at the traffic generation. Based upon a resort hotel which is the best, the closest thing we could come up with, but I think we could all agree that that's more traffic than what would be generated by what we're proposing with guests that are there without their own cars. The traffic generation was identical to three residences. So the assertion that this is going to result in an increase in traffic is just not true. We have maintained that from the very, very beginning. This is not an intensification of use. There is nothing in evidence that this results in an intensification of the use of this property. It is actually quite the opposite.

So I'm going to pull up another image here that I think is a little bit easier to see. So this is the site plan of the property. So this is Camino Tortuga. La Barbaria Trail kind of forks here with Camino Tortuga and it goes off in this direction to serve some additional homes. And then we have Camino Tortuga comes this way to serve these residences here, and then we have Sendero de Corazon which is the driveway that serves the property here. And these are the pullout areas that are referenced and also are reflected in the photographs that I've provided.

So I've already spoken about the fire protection measures, the ones that are existing now and the ones that will be put in place and there was a question – I don't recall which Commissioner asked it. It might have been you, Commissioner Moreno, regarding what if they don't do it? What if they don't do their vegetation management plan? What if they don't put in their fire suppression? What then? We don't have a choice. We have a site development plan approval and we have existing variance approvals as granted by the hearing officer and the Planning Commission that are conditional upon those measures being done. We have to have an inspection by the Fire Department to check the boxes that we have done everything that is required of us. So we don't get to not. That is absolutely not an option. That is a condition of this approval. We can't move forward until those measures are in place.

And while I fully respect as any resident in this type of environment – yes, you have to be incredibly cognizant of fire danger at all times. This is safest property in the area relative to access and fire suppression. And there is nothing in evidence, absolutely nothing that this retreat is going to somehow result in an increase in fire danger. There are people living in this neighborhood today. There have been people living in those

casitas historically. Yes, you have to be cognizant and cautious. This is a non-smoking property. It just is. The applicants are non-smokers. That is going to be a requirement of any guest who seeks to come here for their wellbeing and their healing.

Bear with me while I just confirm a couple of things in my notes. And lastly, with respect to the extraordinary circumstances that we are faced with, those extraordinary circumstances relate to this beautiful mountain environment. If we were to go bring, for example, the driveway and reduce that grade to 10 percent all the way up to the house, like I said, there's only about 20 percent of the driveway that is over 10 percent. The amount of environmental damage to this area, it's unnecessary and unwarranted. This driveway's been very sensitively constructed, originally, and reconstructed in 2012 to make it as safe as possible while respecting the environment that it's in, without undue damage to the vegetation, retaining walls. This is a mountain environment and it's the safest property in the area. And it will get even safer.

So with that I'm going to go ahead and have one more handout for you and then my clients would have a few words. I really appreciate your attention. Thank you very much. Let me tell you what I'm about to hand you. So I have letters of support from the La Barbara neighborhood area as well as throughout the entire community. There are 2 letters of support and petitions with 31 signatures in support of these requests. So I'm going to go ahead and pass these out to you now. So next we have Susan Carter.

CHAIR ROYBAL: Okay. Let's make sure we get her sworn in.

[Duly sworn, Susan Carter testified as follows:]

SUSAN CARTER: I'm Susan Carter. Good evening, Commissioners. It's an honor to be here. I'm Susan Carter and this is my partner, Shari Scott behind me. My partner, my best friend for more than 42 years. Shari's spent her entire career in health care as a registered nurse, therapist, nurse practitioner in psychiatry and a doctor in family counseling as well as a first responder. And I have spent mine in non-profit management. Together we share 56 years of accumulative sobriety, both seeking a meaningful way to end our corporate careers and being single and self-supporting we wanted to invest in helping women find what we have been so graciously given – freedom from addiction.

We wanted to establish a small, sober-living environment for women who have completed treatment but needed a place to heal, a sanctuary for four to six sober women, a property where no alcohol or drugs, tobacco or firearms would be allowed, a quiet place where women could feel safe and come home to themselves in a way they never knew they could.

We bought 34 Sendero de Corazon back in January of 2016 after conducting three months of due diligence on the property and on creating a business such as this, including ensuring the proper zoning, multiple visits with the County Fire Marshal, seeking legal counsel on all aspects of both business and the property, and conducting inspection after inspection on the safety of the property. Unfortunately, before we got afforded the opportunity to meet with all the neighbors to explain our plans, rumors and misinformation spread like poison ivy. Neighbors were told we were opening a detox and treatment facility for drug and alcohol addicts. They were told not to meet with us when we requested individual meetings. Attorneys were hired and it escalated to a point of no return.

Inflammatory language is being used about a commercial entity now being allowed to exist in La Barbaria Canyon, like we're trying to erect smokestacks. There will be no new development on our property, other than possibly slight improvements on the main house. Our residential property will remain a residence, operating a business as so many others do in our neighborhood right now. We bought the property with divine intent and were fully transparent in our plans. We are here to discuss three road variances we need to secure to move forward with our County staff approved site development plan. The staff and County Planning Commission do not recommend modifying the roads to fit the County code as I'm sure you understand even more than I do.

So please uphold their approval, and to reiterate, other permissible situations such as short- or long-term rentals, what Ms. Jenkins said, present much more risk than four to six sober women at a time on 40 acres. Commissioners, we hope that you will not let these variances stand in the way of the healing work we hope to do on this amazing 40-acre property in La Barbaria Canyon. Thank you for your attention and your consideration of this request.

And if it's okay, I'd like to read one letter into record. It's from the former owner of Sendero de Corazon who I actually bought the property from regarding the road. Would that be permissible?

CHAIR ROYBAL: Yes.

MS. CARTER: This comes from Craig Lofton who owned the property right before I did. Is that okay? Dear Honorable Commissioners, I'm writing in support of Susan Carter and Dr. Shari Scott, PhD, the applicants in the Heart's Way Ranch request. I was the previous owner of the property they now own. I support their efforts to establish a retreat under the guidelines of the County Sustainable Growth Management Plan to transition women after rehab back to productive lives, families and careers. People who help others put their lives back together should be commended and supported.

As the previous owner of the property I personally invested significant time and money to improve the condition of both La Barbaria Trail and Sendero de Corazon. When my wife and I purchased the property in 2012 we found La Barbaria Trail neglected and in extremely poor condition. It was an eroded, pot-holed washboard that was very unpleasant to drive on. Passage on the road was less than safe at times because it seemed to be an obstacle course where resident drivers were challenged to maneuver from side to side at high speed to avoid pot-holes, ruts and washboards.

I contacted the road association's manager, Catherine Joyce Coll, and asked if it could be improved. Catherine recruited me to focus on the road improvements while she paid attention to fire mitigation, her real interest. I accepted the offer, confident I could effectively manage significant improvements to the road that all members of the La Barbaria Road Association would appreciate. I hired Red Line excavating to grade and install high quality basecourse, water and roll the road. After that was accomplished I implemented a regular maintenance and repair program to keep the road in good condition.

The road association paid for a majority of the work but I paid Red Line with my own money to grade and roll the road on more than two occasions. I received very favorable feedback on Red Line's work on La Barbaria Trail. Everyone I spoke to appreciated the improvements we made to our neighborhood road. There was one curious

dissent, however. One person I talked to told me there was a neighbor who expressed their displeasure with the improvements because the road was now too good and would encourage tourists to invade the neighborhood.

I cannot help but think this is in large part representative of what it is behind the appeal before you now. We made significantly more improvements to Sendero de Corazon. Red Line moved literally hundreds of yards of surface material to reduce the grades in the steeper areas, widened the drive, dug drainage ditches, installed new culverts and installed the highest quality basecourse material on top of it all. We built five new pullouts and a turnaround for fire equipment to Fire Department specifications. We also installed several dozen railroad ties in a vertical position alongside the driveway as a guardrail safety system.

We performed the work on Sendero de Corazon for two reasons. First, comfort and safety, and second, in anticipation of a major remodel to the main house. Our architect met and consulted with County fire officials and brought them to the property to walk the drive to get their assessment and recommendations. We completed a majority of the recommendations from those meetings. Admittedly it was a real challenge to balance getting the drive totally compliant with newer County codes, not defacing the natural setting of the national forest, and controlling the high cost of the work. We accomplished our goals. When we lived up there UPS and Fedex delivered packages to us nearly every day in large delivery trucks. Pecos Petroleum and Amerigas delivered propane in large tanker trucks. I rented the largest 26-foot box trucks from Penske and Enterprise on five separate occasions to move household goods and shop equipment. We drove two 10,000-gallon water tanks up the hill as part of our water purification and fire safety projects. Clearly the roads work for all the residents of La Barbaria.

While living on Sendero de Corazon I plowed snow in our drive and occasionally on La Barbaria Trails, Owl Creek and Camino Tortuga. A few decades ago I paid my college expenses plowing snow. I enjoyed it. Plowing the area several times gave me a good sense of the condition of the roads and the drives. In my opinion, Sendero de Corazon is in the best condition of all of the drives on La Barbaria Trail and is in better condition than La Barbaria Trail. I appreciate the Board's consideration of this matter. I hope when you balance the merits of the Sustainable Growth Management Plan and Sustainable Land Development Code with the challenges posed by the natural environment you vote to uphold the variances granted to Heart's Way Ranch.
Respectfully, Craig Lofton.

Thank you so much.

MS. JENKINS: So in closing, there's just one more element I wanted to address and this is the question of precedent. These variances have been approved by the Planning Commission. Does that set some sort of precedent, which means any request that comes forward in the future has to be approved. If that was the case then there wouldn't be a need for this process. This process would have no meaning. It is the County's policy: Every application must stand on its own merits. Every application is unique and must be reviewed in accordance with the processes that are laid out in the SLDC.

I don't get to stand up here and point to some road variance that might have been granted in some other part of the county as a basis for this approval. These approvals

were granted thoughtfully and carefully by the hearing officer and your Planning Commission. It was stated that staff had recommended denial of the variances which is absolutely true. It is also a Land Use policy. They always recommend denial of variances every single time. And that is the context in which that recommendation is made.

So, no, we do not establish some carte blanche precedent from the granting of these variances. Every application has to go through the process on its own merits and that's what we did. Thank you very much for your time and attention. I really appreciate it.

CHAIR ROYBAL: Okay, I'd like to say thank you to our applicant and our appellant for all the information and your presentations. I want to move into the public comment. Can we have a show of hands on who would like to comment today on this issue? Okay, and if we can have everybody come forward in the rows so we can go ahead and swear you all in at the same time. And remember when you come to the podium you have to state your name and your address.

[Those wishing to speak were placed under oath.]

[Duly sworn, Dr. John Kitzmiller testified as follows:]

DR. JOHN KITZMILLER: My name is Dr. John Kitzmiller. I live at 97 La Barbaria Road. I want to speak in support of granting the variance for Heart's Desire Ranch very strongly. I believe that the issue of traffic is specious. There will be less traffic then when having guests use that property. The opposing gentleman was inflammatory in his remarks and he was not correct in saying that there was no public sign. I saw it myself when I went up to investigate the roads in that area. There was a big public notice sign of what was coming forward.

As a physician to women for my lifetime career, now retired, I strongly support the wisdom of having this healing treatment recovery center. It's not a rehab. It's for alcoholic women who are finished with rehab in sort of a halfway safe, peaceful place, inspiring to go to. La Barbaria Canyon is a very, very spiritual landscape and it's a highly appropriate use to establish this variance. Thank you.

[Previously sworn, Harmon Houghton testified as follows:]

HARMON HOUGHTON: Commissioners, I'm Harmon Houghton. I'm a local business man, have a publishing company and coordinate a lot of events in communities around town. I've recently met the new owners of Heart's Way Ranch and did visit it right before Christmas in a two-wheel vehicle, had no problems navigating the hill that's being described in only a two-wheel drive.

I'd like to deconstruct the previous gentleman that gave the well researched diatribe in his message into five words, for the same of brevity, which is Not In My Back Yard, and from the little bit that I've known about the two principals of the property they're both career healthcare givers and healthcare business people. They are two females that have gone out on their own and created a center that will serve others and by no means can two casitas be construed as a luxury hotel, and if you go to the property itself, there are no luxury hotel amenities. There are no swimming pools. There's no bartender. There's no concierge. It is structured to be a healing center. And I think what we're facing is a little bit of discrimination because the two principals do not fit necessarily the model of the landowners of that property, which is a battle that's been fought many times through Commission and zoning, most all of them lose.

So I would urge the Commissioners to approve the variances and allow the healing center to go on and constructively become members of the community. Thank you very much.

[Previously sworn, Maeve O'Neill testified as follows:]

MAEVE O'NEILL: Hello. My name is Maeve O'Neill. I'm at 25 Vista Point Road in Santa Fe. I am the CEO of the Life Healing Center, which is right across the highway from this property. We are a residential treatment center for alcohol, drug use and mental health issues. And I just wanted to say, as a licensed professional counselor and licensed chemical dependency counselor I find some of the language used earlier very offensive to clients who are protected by the ADA and we should not speak about them in such a way as was spoken earlier.

I have been working in this field for 30 years. I've seen lots of stigma, lots of judgment about people in long-term recovery and I think it's really important to remember Life Healing Center opened 20 years ago here in Santa Fe and our founders, Bill and Ann Snyder fought a four-year battle to get the program approved. Luckily it was approved and we have since served thousands of lives, saved thousands of lives, many of them from New Mexico and several, many, from Santa Fe. So without the program there they would not have perhaps survived their addiction or the mental health issues.

When we opened 20 years ago we fought the battle. We won it. Since that time we've had no issues. There's been no wildfires. There's been no danger to the wildlife. We've only saved lives. And we are a 40-bed smoking facility. So we don't have nearly – we don't have the issues that people are fearful of based on the stigma that was presented earlier. Our clients come to us from New Mexico, from Santa Fe and lots of other places and many need the services that Heart's Way Ranch will provide. We need a continuum of care that provides support and long-term resources for people in recovery. That's how we will save lives and change more lives. The folks that you all serve are the lives that we will help. So we feel what Heart's Way Ranch is a critical piece of the continuum of care and we hope you will approve it. Thank you.

[Previously sworn, James Deuschle testified as follows:]

JAMES DEUSCHLE: Good evening. My name's James Deuschle. I live at 7 Owl Creek Road. I live right across the ridge from the applicants' proposed facility. I have no problem with the concept that this noble cause that they have, that they're very well qualified. That's obvious from their résumé that's part of their original application. I think what's critical is not to lose sight of the main objection that I think most of the resident of this what is really a box canyon. There is only one way in and one way out and that's a private, very narrow road with trees growing in and rocks. You have to drive up it to appreciate it.

And it's a unique situation in that it's a private road and there's only some of us that have to maintain it due to the history of the way this thing was developed. Not all of the people that inhabit the canyon are legally required to maintain this road. I am and several other people are. We have a legal liability. There's a covenant that runs with our property to maintain this road. It has no guardrails. Occasionally it has bit pot-holes until it gets resurfaced. I'm not saying it's a super dangerous road but you can appreciate we have to maintain it. We're legally required.

So if we have commercial use and let's concentrate for a second on that. These people it's my understanding are going to charge \$15,000 a month for their clients. This is a business. Once you grant this variance if you do that anybody else who owns property in that canyon can make the same pitch and it could be for another noble cause. That's not – it's not a Not In My Back Yard syndrome; it's not on my private road syndrome. It is not appropriate to open this box canyon up to commercial development and I guarantee you it will happen if you do this and grant this variance. It might not happen tomorrow but it will happen in the future and it will be very difficult to stop it.

One last point. I'm running out of time, is that a statement was made about bad faith of the applicants. It's been brought to my attention there was an email sent out by the applicants to the family and friends stating that they wanted them to come out here in a show of force before you all to support them and to encourage contact with the Board of County Commissioners to persuade you all to vote for this variance. I think this is totally inappropriate. You also note that the email states that the supporters of the Heart's Way Ranch will be given a surprise gift of some kind. What I don't know; it doesn't state, but there's some sort of incentive to show up here tonight and raise a ruckus. Thank you.

[Previously sworn, Sandra Rowley testified as follows:]

SANDRA ROWLEY: I'm Sandra Rowley. Honorable Commissioners, my husband, Ken Rowley and I and our daughter and her husband own the entire northern border of the land between Susan Carter and Shari Scott's 40 acres. We have been their neighbors since January of 2016 and have welcomed them into our community. We can walk to each other's houses which has enabled us to get to know them very well. Susan and Shari are honest, forthright, trustworthy, intelligent and honorable. We enjoy their company and are very fortunate to have such extraordinary women as our friends, and they are always there when we need assistance.

When Susan and Shari moved in they tried to reach out to each and every property owner and tenant in our neighborhood to visit with them, inviting them to their home to discuss their plans. While they're our neighbors who embrace them and their project, only two other neighbors who signed the letter attached to Mr. Bank's appeal agreed to meet with Susan. The others who signed the appeal, the letter attached to the appeal. Have never met or been up to her property. How could they possibly have enough information to sign the letter attached to that appeal? And how do they know that the information that they do have is true?

She and Shari wanted so much to befriend their neighbors and be a positive addition to the La Barbaria neighborhood. So much misinformation has been spread about Susan and Shari and Heart's Way Ranch. For instance they are not proposing a treatment, rehab, or clinical facility. Two, assumptions have been made about their motivations being non-altruistic. How can someone say that about two women whom they've never met? They have no idea what their motives are. None of us know, can ever know, what's in another person's heart.

And then opposition claims that their four to six guests will be lighting fires and traumatizing the wildlife, when our own neighbors are throwing lit cigarettes, butts in the forest. I mean I've seen it. I have seen it many times. And are shooting guns to intimidate these single women. They have been harassed and treated very poorly by a handful of

very loud and ugly neighbors. When Susan and Shari paid their \$500 neighborhood road dues and asked that the dues be restricted only to road maintenance, the chair of the organization returned her check saying she, and I quote, "could not accept checks with restrictions on their use" because she knows the monies were being used to pay for an attorney to fight Shari and Susan and other uses that weren't specified in the road maintenance agreement.

This situation has gotten out of hand. Ken and I share a driveway with an opposing neighbor, who oppose Shari and Susan. After the Planning Commission approval, we had large rocks thrown in our driveway so we couldn't even drive down our driveway. Many times. Usually we just moved them but one day the rocks were so big that we had to get two men out in our neighborhood to come and move them from the driveway. Shall I stop? I've just got a few more sentences.

CHAIR ROYBAL: Just go ahead and just try to wrap it up.

MS. ROWLEY: Okay. It's just a little bit. Okay. Thank you. We have lived on our mountain for 19 years and want Susan and Shari to be our neighbors. We want them to own and operate their quiet place of healing right next door to us and the variances in question are perfectly fine just the way they are. Please, Honorable Commissioners do not override the Planning Commission's decision to approve the road variances. This is the issue and this is the only issue in question. Not the inflammatory remarks and assumptions that are being made about the impact that this non-threatening project will have on our neighborhood. Oh, please, let us get back to the caring, compassionate group of neighbors we used to be. Thank you.

CHAIR ROYBAL: Thank you. Okay, next.

[Previously sworn, Diana Rasche testified as follows:]

DIANA RASCHE: Hello, Commissioners. I'm Diana Rasche and I live at 9 La Barbaria Road. I'm a neighbor in the La Barbaria Canyon. I'm speaking to support Heart's Way Ranch in their strive to open their facility. I have to tell you that coming from the Midwest, the high fire danger of that area freaked me out, of course after we had bought the property. We hosted a meeting with Krys Nystrom, I believe is her name and with the wildlife fire people and I invited people from the neighborhood to attend that meeting. Susan Carter was the first one to walk in. I didn't see some of these other people. I posted a sign on the post boxes to let people know.

I would like Susan Carter to be my next-door neighbor because I tell you – and she's not; we're farther down the canyon towards Old Santa Fe Trail. Her property, if everybody in that neighborhood took care of their property like she has and like the owner before and did what they did in mitigating fuel for fires and ensuring that the property is safe, we'd be in the safest neighborhood in the whole area.

I guarantee there's neighbors up there that do not know what they're up to, and that's their right. A lot of people are friendly and a lot of people don't want to be bothered, but if everybody was like the people that own Heart's Way Ranch it would be a good place to be living, let me tell you. And a safe one. And they're going to be in a transparent bubble because that's the only way that they can function if they get approved. And I just want to ask you guys to approve their project. Thank you.

[Previously sworn, Jan Patterson testified as follows:]

JAN PATTERSON: I'm Jan Patterson. I live at 6 Starfire Lane in District 4. Thank you for hearing me today. I'm going to preface my brief remarks to let the Commissioners know that I am in complete support of Heart's Way Ranch. I believe the compassionate and practical mission of the ranch is in complete keeping with Santa Fe's reputation as a professional healthcare center. But I also wish today to support the approval process that has taken place to date, namely the permission historically granted to Heart's Way but the rural fringe zoning district. But additionally, the site development management department approval and the approval for the requested variances by the Planning Commission.

I am certainly in accord with the opposition's legal right to disagree with these decisions and to request that they be reversed, but in my eye, the appeal is based on opinion, not new and irrefutable evidence. Perhaps most disturbing is that these opinions include calling into question the veracity and integrity of the officials on these decision making bodies with the opposition insinuating that ulterior motives and persuasive money and connections were involved. That these decisions were made by qualified individuals who considered all elements of the proposal is critical, not just to Heart's Way but to the development and management of all growth proposals for the county and the city.

This is the process we have in place, to manage our local development opportunities, and frankly, to besmirch the decision makers is to me a desperate, not a rational platform. But further to this, and me being critical I would like to note, Commissioners, is if there was ever a time in history for us to trust and have faith in established due process in all levels of government, unless there was a clear, absolute and evidence otherwise it is now, as we are confronted at our federal level with dismaying ambiguity, indifference and irresponsibility in our regard for the rule of law. I thank you. I trust in the fair and responsible resolution to the future of Heart's Way Ranch in Santa Fe. Thank you.

CHAIR ROYBAL: Thank you. Next speaker.

[Previously sworn, Reese Said testified as follows:]

ANN REESE SAID: My name is Ann Reese Said and I live at 3005 Monte Sereno Drive in Santa Fe. And I'm here in support of Heart's Way Ranch and will just briefly mention that I too have been a marriage and family therapist for over 30 years. I respectfully ask the Commissioners to uphold the approval given by the hearing officer and the Planning Commission who thoroughly reviewed and vetted the application for variances to allow the approved use. In addition I would just briefly add that I have known Susan Carter and Dr. Shari Scott for many, many years and it is my good fortune to have known them and my pleasure to stand up here in front of you to let you know and vouch for their integrity, their transparency, their conscientiousness to every project they undertake. Thank you for considering and listening to me and I so hope that the variances are approve. Thank you.

CHAIR ROYBAL: Thank you. Next speaker.

[Previously sworn, Andrew Alt testified as follows:]

ANDREW ALT: Commissioners, it is a pleasure to be here this evening. My name is Andrew Alt. I'm a nearby neighbor. I live on the Santa Fe Trail. In addition I'm an active hiker in our beautiful geographic zone down Santa Fe Trail and eastwards

into the foothills north of St. John's College, the cityscape, as well as down through La Barbara Canyon. I know it well. I've seen it in all seasons. I've seen it for its very special environmental strength. The spirit that has been spoken to in that land, it's an incredible spot. It's a place that will change people's lives, and I will say it does change people's lives.

I want to bring up a key point that speaks to precedent. We're all here because new zoning permitted the establishment of retreat areas in the county. And it so happens this area we're speaking of tonight is one of those zones where approval was given for these sorts of things. With that in mind, with all the effort, the vision, and the courage it took to create those new steps and embrace that future I would ask that we sometimes take a bigger picture, a bigger view, of what can be. Sometimes it's frightening to walk into the new, but we always seem to be able to handle it and usually we build and we grow and we nurture people that need this sort of care and long-term concern. So I am for what's happening at Heart's Way Ranch. The area is special for it and I think we as a county and we as a city can be the richer for it. So keep it simple – I'm a supporter. Thank you.

[Previously sworn, Deuschle testified as follows:]

KATHY DEUSCHLE: Hello, my name is Kathy Deuschle. My husband James and I purchased a property on Owl Creek Road about three years ago as a second home knowing it was in a residential as opposed to mixed use, residential-commercial neighborhood. If it had been otherwise we wouldn't have bought it. If we knew that Santa Fe County would change the allowable usage and in this case and up to this point brush aside the road requirements in place for commercial development we would have looked elsewhere.

Purchasing this home required much of our savings so it had to be a sound investment. Like most people, James and I value a clear separation between our home life and the commercial world. Given our neighborhood's steep terrain, historic significance and proximity to the national forest, it just felt like common sense that it would remain wholly residential. Unlike us, most of the property owners using our common, privately maintained road live here year-round and work or are retired from decades of working in Santa Fe. Among other occupations, our small neighborhood includes a variety of educational professionals and business owners who employ many local people. They have raised families here and the contributions they have made to the health, prosperity and quality of life here are substantial and based in fact. Shouldn't the wishes and informed opinions of these long time residents receive a more weighted considerations than the wishes and opinions of Susan Carter and Shari Scott, relative newcomers, who can as of yet, offer only seductive promises.

I understand and support policy that creates a vibrant local economy but it's unjust and unreasonable to bend the rules and insist that we accept change to the fabric of our community that ignores the informed opinion and wishes of just about all of us. It's unjust and unreasonable to insist that we who are dependent on and responsible for our private road bear an increase in traffic, maintenance, road hazard and a rural nuisance for the benefit of commercial enterprise. Should the County force us to integrate commercial development into the fabric of our domestic lives they will have acted in an overreaching and intrusive manner.

The common opposition letter, the individual opposition letters, and the testimony presence of neighbors here today is evidence that the overwhelming majority of residents along La Barbaria Trail want our neighborhood to remain wholly residential now and into the future. I respectfully ask you to respect our wishes by denying Heart's Way Ranch the variances they seek. Thank you.

[Previously sworn, Liz Sheffield testified as follows:]

LIZ SHEFFIELD: Hi. My name is Liz Sheffield. I live at 17 Camino Delilah, Santa Fe. First, I would like to just state that I am offended to hear that it was suggested that these women were basically promising gifts for support. I just really don't believe that. Number two, what is the point as to whether the water holding tanks were installed prior to the current owners owning it? What is the point? They're there. The suppression and water holding tanks surpass anything that I have ever seen in Santa Fe. I'm a realtor. I drive all over the county. The roads are the best I have ever seen. They are very safe and the fire suppression that is in place is the best I've seen.

This is difficult and heartbreaking. This is the fourth time I've stood here and to continue watching such mean-spirited opposition to the creation of this sober living environment. I have heard over the course of this long process many preposterous claims. I have heard again and again that "addicts" are more likely to smoke and therefore will burn the canyon down. I have heard that women from Dallas would not know what to do if they encountered a mountain lion. I guess really it would be wise for the County to consider closing the entire mountain range to all types of use – hiking, camping, sightseeing, including driving, because of the added risk, and since we need to protect our mountain I suppose we all need to pray that lightning does not strike and burn Santa Fe County down. That's how preposterous it seems to me that these arguments are.

It's interesting to me, in reality the entire property could really be rented short-time on a continuous basis, unrestricted, to any sort of individual or group – wedding parties, fraternity parties, family reunion, bachelor parties – the list goes on and on. This is not their intent. I wonder how many cars will be driven and how many cigarettes would be smoked if this were the case; this is not the case. I bring this up to point out the ridiculous and absurd nature for the basis of this opposition. Really, I think the opposition is: they just don't want it in their neighborhood and they are trying to come up with reasons, silly reasons, that it should not be allowed.

Seriously, we're talking about providing mature women an environment that is quiet, peaceful and tranquil, an environment to read, meditate, and generally have some time to get their feet back on the ground.

CHAIR ROYBAL: If we can wrap it up, I'll allow it for you to wrap up but you did run out of time. Could you turn the mike back on.

MS. SHEFFIELD: We're talking about providing mature women an environment that is quiet, peaceful and tranquil, an environment to read, meditate and generally just have some time to get their feet back on the ground and create a path towards continued health and sober living. This program is designed to get these women just that. We're talking about six adult women at the most at any given time. It is my understanding these women will not have cars.

This is a very personal issue for me. I have experienced firsthand the desperate need for a place like this. My partner was in an alcohol rehabilitation facility. She did not

smoke. Never did. Her professional counselor strongly advised that she needed to go to a place just like what we are talking about. She needed a healthy place, a healthy place that would provide space and time to transition back to her life and to her home here in Santa Fe. She needed some tools to help here along the way. There was no place for her to go. Ten months later she relapsed and took her life. This is very personal to me. Sorry. I know if she had a place to go like this she would be alive today.

So I ask again to please allow these three variances to be granted. These three variances stand in the way of the creation of something really positive and really good for society and for Santa Fe. In my opinion it will in no way have any type of negative impact on the neighbors or the neighborhood. Thank you for your consideration.

CHAIR ROYBAL: Thank you. Next speaker.

[Previously sworn, Catherine Joyce Coll testified as follows:]

CATHERINE JOYCE COLL: My name is Catherine Joyce Coll and I live at 83 La Barbaria Trail and I've been the neighborhood association president for the last – I don't even know – seven, eight, nine years. And there've been so many inaccuracies in some of the testimony today and I'm going to ignore it because most of what's been said doesn't speak to the issue before us, which is whether it is reasonable to grant these variances. And I think the new Fire Marshal probably isn't as aware as those of us who live there of the fire danger and my husband and I have lived up there 15 years.

My husband died two years ago and at least every two years we've had neighborhood association meetings with fire chiefs there to speak to us. Not only that, most of us go to the meetings held at the Fire Department buildings when the Fire Department holds them. And it's not true that that's the safest property in the neighborhood. Almost every one of us has gotten a grant from the federal agricultural department and done very serious fire mitigation on our properties. And it's also not true that they have the safest driveway because most of us have fairly flat driveways.

And all five of our last fire chiefs have told us clearly and unequivocally that if there is a major wildland fire they probably won't be able to get up to our neighborhood. First of all half of La Barbaria Trail is so narrow one car has to pull over for another to pass. The fire chiefs had told us that not only can they never get a large fire truck up, we've had two fires up there and what they did was bring up those oversized pickup trucks and had water tankers parked at the bottom of the road. They've said that we'll probably have to shelter in place, that they can't send fire crews up into our box canyon because they can't be assured of getting them out, especially with the fluky winds in our main canyon and then the little canyons that come in.

So it seems to me that granting variances for a commercial enterprise absolutely makes no sense. And I did reach out to Susan when she moved in. I actually took her to dinner at La Fonda and she told me what she wanted to do. I had taken a neighborhood vote. I had taken a neighborhood vote and I told her that the neighbors were opposed. And I was sorry. And I didn't dislike her in the least. Our objections are that it's inappropriate for the area that we live in and very few New Mexican could pay \$15,000 a month. This is designed for Texas women that are friends of these two women, not for New Mexicans.

[Previously sworn, Ken Rowley testified as follows:]

KEN ROWLEY: Evidently, we have people living in La Barbaria Canyon that don't realize it's risky to live in the mountains.

CHAIR ROYBAL: Sir, hold on one second. Can you state your name for the record and also your address?

MR. ROWLEY: Ken Rowley. Okay, you're trying to make me ashamed; I don't want to tell you. Anyway, we've got people living up there in La Barbaria Canyon that don't realize there's risk involved in living in these mountains. I'm not used to public speaking; it scares me. But anyway, they're living in the mountains and these risks, they aren't resolved. They cannot be resolved.

Now, I want you honorable Commissioners, you patient, you tolerant souls. First I've got to apologize because a while ago I burst out and said something I probably shouldn't have. Father, forgive me for I have sinned. I thank you for allowing me though to express my thoughts and feelings about the appeal previously approved variances of Heart's Way Ranch. There's been so much said regarding these three variances and many other comments that don't pertain to the three bumps in the road.

Regarding Professor Bank's appeal, I find it very well written, intellectually expressed and certainly deserving of an A. It is very objective in every sense of the word but except for the part talking about the three variances is totally irrelevant. Excessive. Misleading. Confusing. About the issue of three bumps in the road. It does fit well the holy temple of intellectualism but may promote the blind assertions of the superiority of one approach over another, perpetuating misunderstanding, fear and hostility.

Robert M. Hutchins, he was chancellor of the University of Chicago, once said and I live this; it's a good quote. It goes like this. It's good to be serious but be serious about serious things because even a monkey wears an express that would do credit to any college sophomore but the monkey is serious because he itches. Our itch is only the three variances. That's all it's about. A lot has been said about –

CHAIR ROYBAL: Sir, your time has run out but if you could wrap it up I'll allow a little bit longer. Yes, just a little bit longer but go ahead and wrap up, sir.

MR. ROWLEY: – that would last longer than your lifetime and mine reminding us that this could have been prevented by simply granting three variances. The wisdom of this would certain outweigh any intellectual argument to appeal the already approved variances. My thought and feeling is that the wisdom of you Commissioners, yes, your wisdom –

CHAIR ROYBAL: Thank you, sir. If you could wrap up.

MR. ROWLEY: I'm very sorry you don't get to hear the rest of this.

CHAIR ROYBAL: Thank you. We really appreciate it.

MR. ROWLEY: We'll meet afterwards.

[Previously sworn, Duchess Dale testified as follows:]

DUCHESS DALE: That's a hard act to follow. Good evening. My name is Duchess Dale. I live at Park Plaza in Santa Fe, New Mexico. Thank you, Commissioners for the opportunity to speak, for your patience and tolerance. I'm here to support and request your sustained approval of the variances in regards to Heart's Way Ranch as has been previously determined. I would like to concur with two of the previous speakers who addressed the inflammatory and prejudicial comments of stereotypical assessments, not only to Susan and to Shari but towards prospective residents at Heart's Way Ranch.

To me this implies a level of fear and ignorance that extends itself beyond concerns about traffic or wildlife. And then I must address one topic for which I take personal umbrage. Dr. Banks and a gentleman previously mentioned the phrase "bad faith" twice and that steps in my personal as well as my professional territory as I stand before you as Susan Carter's minister and to that which I am legally and spiritually allowed to say I can attest to her integrity, her intention to her practicing what we teach and preach as unconditional support and service, which does not include even the inference of parting gifts for any of the genuine endorsements of the people who believe in what she and Shari stand for, what they want to bring to this community of Santa Fe, to Heart's Way Ranch in the support for women who are looking for another chance. Thank you, Commissioners. God speed.

CHAIR ROYBAL: Next speaker.

[Previously sworn, Ginger Clark testified as follows:]

GINGER CLARK: Greetings. My name is Ginger Clark. I'm a 27-year resident of Happy Trails which is off La Barbaria Road and I'd like to rebut a couple things I heard. I personally have been a first responders to accidents, head-on accidents over the 27 years, although I'm not an EMT or a doctor a healthcare professional, you do what you can when neighbors are in trouble. I have gone through two floods where La Barbaria Road was impassable. One was when we were building our house 27 years ago and one was about 15 years ago. And truly it was impassable. Culverts had been ripped out. There was deep holes. A neighbor lost his Fiat which overturned and that's a lot of water.

And I'm concerned to the point I've met with Commissioner Hamilton regarding that road and the issues with it. I'm just concerned that more traffic and more chances for accidents will develop. I would like to see the road and usage study. Was one completed is a question I have, but La Barbaria is a dangerous road. It's a box canyon and I would think that the Commissioners would want to put a little more research into this proposed Heart's Way Ranch. It's a noble cause and I'm supportive of that cause but there are issues that need to be taken into consideration. Thank you very much for the time. I appreciate your insight and your decision.

CHAIR ROYBAL: Next speaker.

[Previously sworn, David Nagler testified as follows:]

DAVID NAGLER: My name is David Nagler. I live in La Barbaria Canyon. Good evening Mr. Chair and Commissioners. I might say I've lived there for 20 plus years and I feel bad about the inflammatory language on both sides of this discussion. I have to say thought that most of the advocates here this evening don't live in our canyon and I would daresay most of them are not familiar with our canyon. I certainly have no quarrel with the aims of the Heart's Way Ranch. It's a noble idea. I've met Susan Carter and Shari Scott briefly. I am not impugning them as neighbors. I am not impugning their intent.

The roads, however, are a mess. The Fire Marshal was up there yesterday. Well, at 2:00 in the afternoon on a dry day the roads are passable. That's fine. I'm concerned about danger and access in the snow and the mud and the dark. I've lived there 20 years. Two or three times a season I tow somebody out of ditch or off the side of the road or call a wrecker because I can't deal with it with my full-size four-wheel drive Dodge pickup.

Commissioner Hamilton was at a meeting October 26th chaired by Paul Kavanaugh of Santa Fe County Public Works to discuss paving more of County Road 67F. That's La Barbaria Road that leads into La Barbaria Trail, and he noted that the whole area is FEMA floodplain and the wetlands subject to the Corps of Engineers' oversight and it's fraught with problems and engineering issues. Is that your recollection, ma'am?

So lastly, again I have no quarrel with a facility to help people that need healing. It sounds noble, it is noble. But the whole reason government entities have zoning and engineering standards is for a reason. The SLDC requires variances meet a test of extraordinary and exceptional and in this location, I would ask you, what's extraordinary and exceptional that justifies it. And I'll leave a minute for anybody else who wants to talk. Thank you.

CHAIR ROYBAL: Okay, next speaker. Is there anyone else that would like to speak to this matter? Sir, have you been sworn in, sir?

[Previously sworn, Jay Shelton testified as follows:]

JAY SHELTON: My name is Jay Shelton. I lived up there – we are immediate neighbors of this property. We've lived up there for 35 years. I think we were the first folks to be up there who are still there. As many other people have said I have no problem with the proposed business. It's needed, but that's not the issue. The issue is the road variances and I'm very concerned about safety, primarily fire safety. I will add that there have been five accidents that I can think of on the roads in the time that I've been there.

But I'm really concerned about the fire safety. The more people who are up there the more chances a fire might get started. The more people who are up there the more likely – I guess my nightmare is the Fire Department can't get in. There's a fire that's raging. We're all trying to get out and the more people in a panic exit scene. More people are trying to use roads that are too narrow and have grades and we'll have a pile-up and people will be stuck and you won't even be able to drive out.

The degree to which these roads are out of compliance – I was interested to learn recently is huge. It's not a percentage of a percent or two. It's a huge degree of non-compliance, both in terms of width and in terms of slope, and it's over many locations and it's over fairly long lengths at the locations. It's not a bump in the road; it's pretty serious. There is no place in Santa Fe County that has higher risk of fire danger. Part of it is that there is only one way out. If there ever was a place where road variances should not be granted for fire safety it is where we live. I would ask you please to make the environment as safe as you can for us by not doing anything that encourages development and additional activity up there. We've had lot division proposals in the past which have not gone through for the same basic reason. It is a dangerous place to live. Thank you.

CHAIR ROYBAL: Thank you. Do we have anybody else from the public that would like to comment? Come forward, sir. Have you been sworn in also?

[Previously sworn, Adam Horowitz testified as follows:]

ADAM HOROWITZ: Good evening. My name is Adam Horowitz and I have been in La Barbaria Canyon as a resident almost as long as the Sheltons. I moved there in 1989 and I built my own house with my own hands that took me ten years to build. So I have a very strong attachment and familiarity with the area, which I hope

counts for something. I've walked that valley hundreds of times and I'm very familiar with the roads, with the whole terrain, with the fire danger and I have to tell you I have lived in terror, year after year when there's a drought, which tends to be most of the time now, waiting for the big fire when we are trapped. And as Catherine Coll said, the Fire Department – and I've had Fire Department employees, or volunteer fire department, I guess they're not employees, tell me that if there's a fire they're probably not coming because they don't want to get stuck. It's one way in and one way out.

This isn't like other places, rural fringe, in the county where there are different access points. It's one narrow, windy, steep road and in and out and I have been stranded and not been able to get out of that canyon many times in the 27 years I've lived there. And the idea that there's no accidents is untrue. This big hill that has a 20 percent grade or whatever it is, I have been blocked both ways on that hill by cars sideways, cars on their side, and even a car upside down that turned over because they couldn't stop on the ice and went up on the embankment and rolled over and blocked that road. And a lot of people talk about, the road is fine for two-wheel drive. Well, not in the snow. And in the snow it's a whole different story. So that's one thing. I see my time's running out and I'll be diligent about that.

The other thing, all this talk about the nobility of this facility is all true. How long will they own it? And what happens when they sell it? I have seen so many people come and go in that canyon in 27 years, buy and sell property, and when they sell that property as a commercial treatment facility or rehab facility – whatever they call it, who's going to buy it? And what are their standards going to be? And how are they going to vet their people? And I asked somebody on the County Planning Commission, well, if somebody wants to take heroin addicts, the next owner – I'm not talking about the current applicants, or convicted felons, no problem.

CHAIR ROYBAL: Go ahead and finish up, sir. I'll allow a little bit longer.

MR. HOROWITZ: Very brief. I don't want to address the intent of the current applicants. People come and go. They sell their property, they sell it to somebody else. Once the precedent has been set and it's a commercial facility, the next owners will do what they want. And it could be in a year; it could be in five years; I don't know. But let's not make this a personal thing. It's about the precedent and who are the next owners going to be and what's going to drive them. So that's it. Thank you.

CHAIR ROYBAL: Thank you. Is there anybody else that wishes to comment? Anybody else from the public? Okay. We have one other. Have you been sworn in, sir? Yes. And is there anybody else that would like to talk tonight after him. If we could come forward.

[Previously sworn, Bruce Velick testified as follows:]

BRUCE VELICK: My name is Bruce Velick and I live in La Barbara Canyon. I'm on the board of the Overlook Homeowners Association. First, I'd like to say that I wish our roads were as nice as the roads up to Heart's Way Ranch. Granted, in the winter all of the roads there require proper vehicles. I think the roads up to Heart's Way Ranch and the people that live up there would be wise to post a sign as we do, advising cars in inclement weather not to drive up there in a two-wheel drive vehicle.

But I really think the issue of calling out that it's really about allowing them, meaning Heart's Way Ranch to do what they want to do and not making this about – I grant, you need to decide about the variance. But really, this is not about people saying what if the next person comes along and – what if the client is not allowed the variance and they rent to two casitas to heroin addicts, or to smokers. All of the what-ifs should not be your concern beyond the variance and those variances I thought were properly addressed by the Planning Commission and I simply hope that you would concur with that. Thank you very much.

CHAIR ROYBAL: Thank you. Is there anybody else from the public? One more time, is there anybody else? Okay, I'm going to close the public comment, but we had a request for a rebuttal, so I'm going to allow a rebuttal from the appellant and from the applicant, but I do want to emphasize that we don't want to go over issues that have already been presented, so if you have new information that's what I would allow for you to say. And of course I would also like to limit it to six minutes.

MR. BANK: I would say a couple things. First, the approvals – and I am repeating this – were based on false information.

CHAIR ROYBAL: Sir, if that's intentional, can you please not do that? Okay, sir. Continue please.

MR. BANK: Again, the approvals were based on false information. Everyone is saying who supports the proposal that everything was considered. It wasn't considered. They didn't consider the grade of La Barbaria Trail. They didn't consider the width of La Barbaria Trail in terms of the fire code. So those approvals are suspect. They aren't solid.

I would also say that part of the reason for that was what I call bad faith, which is a legal term, not a spiritual one, and this letter or these emails suggest another piece of that, where they advised their – or encouraged their supporters to contact you all in violation of the adjudicatory nature of this proceeding. They wanted them to contact you before this meeting, and that is unethical. I wonder if their due diligence that they say they practice extended into looking into the rules for this procedure. I don't think it did because of if it did then it certainly is bad faith. But in any event it's unethical to do what they did.

Since I don't have a lot of time let me focus on two areas. The traffic study – if you look at this traffic study that they submitted and you look at the resort which they used to compare to the two casitas, it says that there is only going to be one vehicle going in in the morning and one vehicle going out in the evening. A resort with four people with employees only has one vehicle going in and one vehicle going out? And if you look at that table there are zeroes all over it and it says a zero indicates data not available. They don't have any data that supports the idea that the traffic is not going to increase. And in fact common sense tells us people are paying \$15,000 a month. They're not going to want to do their own laundry. They're not going to want to cook their own meals. They're not going to want to fix their own toilets. Somebody has got to do that and there are going to be people coming up to that facility.

They did not mention any employees until pressed by the hearing officer. And that to me constitutes bad faith.

The last thing I want to talk about is – I really want to talk about a number of things but I'll just focus on exceptionality. People mention the rule of law. That's what I'm all about. I read the code. What they're asking for is for you to sacrifice the law, to change the law to suit their purposes, which of course you can do and there are restrictions in the code that say when you can do it and when you shouldn't. They have to demonstrate exceptional conditions of their property and then they have to link that to a hardship. So I'm just going to read from Justice Minzner again, some from Downtown Neighborhood Association. These are all quotes from her. "The ultimate question to be answered is whether the applicant has shown unnecessary hardship. In answering this question the body considering the variance must resolve several factual questions. The first question is whether the partial is distinguishable from other property that is subject to the same zoning restrictions." Every property in La Barbaria, off of La Barbaria Trail is subject to the same zoning restrictions, which in their due diligence they didn't note that that road did not meet County standards.

Let me continue with what she says. Unnecessary hardship, which must be linked in the factual sense to some unique property on their land. She says unnecessary hardship has been given special meaning by courts considering a zoning authority's power to grant a variance. It ordinarily refers to circumstances in which no reasonable use can otherwise be made of the land. She of course can use the land as a residential property. Nothing in the code prevents that. The exact showing necessary to prove unnecessary hardship varies from case to case. However, it is clear that a showing that the owner might receive a greater profit if the variance is granted is not sufficient justification for a variance.

So she has no hardship here. She has no exceptional characteristics of the property, no hardship that she can link to it, so according to the code she is not entitled to these variances. That's what the law says and I hope that the rule of law is what you follow.

Since I have 30 seconds, let me talk a little bit about fire. No, let me talk about precedent. If you grant this variance how can you deny this same variance to someone else in that neighborhood? You can't. Not without going to court and spending lots of money. How can you say that you are not opening up that whole canyon to commercial development? Which will destroy its character. Could I have few more seconds?

CHAIR ROYBAL: Yes. Go ahead and wrap up, sir.

MR. BANK: What they were arguing is that that road's been there a long time so it's sort of grandfathered in. Well, it's been a residential community forever, so why can't we grandfather that in? That's the point. We want to preserve our neighborhood as a residential neighborhood. We're not opposed to their intentions. We're opposed to a violation or a rejection of the safety standards that are embodied in the code which serve to protect everyone.

And finally, to the comment about the road association, they objected to the road association in the first couple of hearings and – and it's not a legal association. So there's no way to guarantee maintenance on that road. There's no way, until there are formal agreements, and I spoke to that in my appeal document so I'll just let that stand. Thank you.

CHAIR ROYBAL: Thank you.

MS. JENKINS: Thank you very much, Chair Roybal and Commissioners. I will be brief. Just a few elements I would like to address. We completely respect the sensitive environment that is this canyon. We respect the concerns about wildfire. And there is nothing before you to demonstrate that these two casitas being occupied part time by guests at this retreat is in any way increasing wildfire danger. It's just not before you. A person occupying those casitas is a person occupying those casitas. If they are full-time residents renting those casitas for their homes as has historically been the case, or if we have guests there not all the time. There's not going to be guests there all the time.

We respect the concerns about an increase in traffic. It's a really good thing. These guests will not have their own cars. There's nothing before you to demonstrate in any way that what is being proposed here is going to increase traffic. If those casitas were rented full time, as has historically been the case, yes, that is trips back and forth to work, to the grocery store, to town, whatever it may be.

Significant fire safety measures have already been implemented on this property and additional ones are a condition of its use for the proposed retreat.

With respect to – there's been a lot of comments about this \$15,000 a month figure. I have no idea where that came from. Susan and Shari are developing their plan for the property. That information is – again, it is misleading and it has not been established yet. So I just wanted to put that on the record that that did not come from the applicant.

And with respect to the email that went out, the applicant is precluded from reaching out to the Planning Commission or the County Commission when they have a case before Santa Fe County. Absolutely. That is ex parte communication; it's inappropriate. Your constituents, if they chose, are absolutely – it is permissible for them to reach out to their Commissioners to express their opinion as they have done here tonight in public testimony. So I think there's an important distinction there. I have not reached out to any of you. My clients have not reached out to any of you, because that would be inappropriate. But your constituents, the public, has every right to make their opinions known.

And with respect to the question of exceptionality, we talk about the rural fringe zone. The rural fringe zone is all over Santa Fe County. It's not just about comparing this property to the people next door. It's about comparing this property to other rural fringe zoning areas all over Santa Fe County. There's lots of it. So with respect to exceptionality I think it is best stated in the Planning Commission's final order justifying their approval of these requests, and I quote. "An extraordinary and exceptional situation has been demonstrated due to the steep terrain of the property and the avoidance of scarring the hillside to reconstruct the driveway, which is well constructed and contains fire protection measures. It would be difficult or impossible to widen La Barbaria Trail, and prohibitively costly, or to change the grade of the intersection at La Barbaria Trail as it is an existing road constructed many years ago with inadequate easement. Denying the variance would hinder the spirit of the SLDC and fostering local businesses."

And with that I really do appreciate your patience and your attention this evening and I'd be happy to stand for any additional questions. Thank you very much.

CHAIR ROYBAL: Okay, did we have any additional questions or comments from the Board? Public comment is closed so is the any additional questions

from the Board or comments? Not at this time, so I would welcome a motion or some sort of comment. I defer to the Commissioner of that district and I know it's a very difficult decision right now and I don't know. It's a heck of a one to cut your teeth on for your first meeting.

COMMISSIONER HAMILTON: I appreciate that consideration. Thank you, Mr. Chair. This is – there's a lot here that is important information that's been presented that isn't necessarily related to whether a variance of the SLDC code is granted. I think – so let me say that I think there – outside of the question, slightly to the side of the question of the road variances themselves, the work the Heart's Way Ranch have done, their intention in doing this and the service it would provide, they're wonderful things. I think they're very desirable things.

But I think the issue that we have to decide has to do with when it's appropriate to grant a variance to the Sustainable Land Development Code and what that code is trying to achieve in putting in these overarching considerations. And I'm not sure that we have reason beyond what County staff has researched and recommended to go against this County staff recommendations which are that the extraordinary circumstances for granting the road variances haven't really been met, that the concerns about the safety that these codes are supposed to protect are still concerns and that includes the fact that La Barbaria Road and La Barbaria Trail are narrow and that in discussions, my understanding from what's been presented and what was presented in the appeal is that the previous Fire Marshal suggested this would be appropriate if the road met the County standard, if the road was improved to that condition, and that was La Barbaria. And that's not the case.

In addition that, there is this consideration of demonstration of extraordinary harm based on, so that you grant a variance when it's a minimal variance and when not granting the variance would otherwise prevent any appropriate use of the property. And so I guess on those bases I would – if it's appropriate at this time I would conclude that the appeal should be upheld in accordance with staff recommendations.

COMMISSIONER ANAYA: I'll second that, Mr. Chair.

CHAIR ROYBAL: Okay. We have a motion and a second. A motion from Commissioner Hamilton and a second from Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair.

CHAIR ROYBAL: Yes, sir. Go ahead, Commissioner Anaya. You have a comment?

COMMISSIONER ANAYA: Yes, Mr. Chair. Just under discussion. I want to say a few things on the record. I think there was a lot of comment and I think there was maybe some emotion on both sides that maybe overstepped the bounds of what I think is reasonable, but that being said, I think there's a couple simple comments I want to put on the record.

People that choose to live in La Barbaria Canyon choose by their own volition to purchase the property there, to build homes there, to go in and out of a one-way road and I can speak to and vouch for that that area in the event of a wildfire will be a mess and it will be a very dangerous place. That being said, those people that are residents that purchased to live there do that of their own volition and their own choice. When we talk about as a Commission making exceptions or variances which I voted for many variances

as a Commissioner, but you have to take into consideration with those variances what are you putting the public to if it relates to a business, and I think that's the differentiation.

Not the number of people. I think Ms. Gavin, JenkinsGavin brings up well that as far as the number of people it's essentially going to be similar and the same. But the difference is, from my perspective, going to what Commissioner Hamilton is talking about, is safety issues associated with public safety and the fact that it's a business now and that we as a Commission are affording a business to go into an area that we knowingly know is a very difficult and challenging area.

That being said I respect comments on all sides, both sides. I think some of you maybe pushed the envelope a little but that happens when you're talking about your property and things you believe in. So I respect that things kind of move and push that envelope. But that simple fact of safety and the change from a residence to a business brings me concern in that particular area. Thank you, Mr. Chair.

CHAIR ROYBAL: Thank you for your comments, Commissioner Anaya, and I'd like to add by just thanking everybody here tonight and for coming and presenting and sharing your feelings on how this should proceed. It takes quite a bit for you guys to be here till 8:00 at night and provide your comments. We do appreciate that. Is there any other comments from the rest of the Commission? Seeing none, so we do have a motion and a second so I'm going to call for a vote. Can you repeat the motion?

COMMISSIONER HAMILTON: Yes. The motion is, for the reasons discussed to uphold the appeal. So a vote in the positive is for the appeal.

MR. SHAFFER: Just to be clear, if I could, Mr. Chair, Commissioner. It's to uphold or grant the appeal and deny the variances.

COMMISSIONER HAMILTON: Yes, sir.

CHAIR ROYBAL: And your second, is that your understanding, Commissioner Anaya?

COMMISSIONER ANAYA: Yes.

CHAIR ROYBAL: Okay, so we have a motion and a second.

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


IX. CONCLUDING BUSINESS

A. Announcements

B. Adjournment

Having completed the agenda and with no further business to come before this body, Chair Roybal declared this meeting adjourned at 8:09 p.m.

Approved by:



Board of County Commissioners
Henry Roybal, Chair

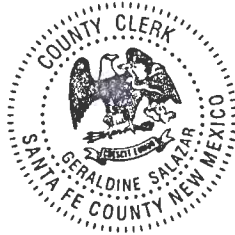
ATTEST TO:


GERALDINE SALAZAR
SANTA FE COUNTY CLERK



Respectfully submitted:



Karen Farrell, Wordswork
453 Cerrillos Road
Santa Fe, NM 87501



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC MINUTES
PAGES: 280

I Hereby Certify That This Instrument Was Filed for
Record On The 22ND Day Of February, 2017 at 10:52:20 AM
And Was Duly Recorded as Instrument # 1818240
Of The Records Of Santa Fe County

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

Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

SUPPLEMENTAL MEMORANDUM

Date: January 10, 2016

To: Board of County Commissioners

From: R. Bruce Frederick, Assistance County Attorney *RF*

Via: Ray Mathew, Transportation Planner
Robert Griego, Planning Manager
Penny Ellis-Green, Growth Management Director
Katherine Miller, County Manager

Item: **A Resolution Approving The Santa Fe County Title VI Plan And Authorizing The County Manager To Submit The Plan To The New Mexico Department Of Transportation On Behalf Of The County (Ray Mathew/Growth Management)**

SUMMARY:

As explained in the December 28, 2016, Memorandum from Ray Mathew, County Transportation Planner, to the Board of County Commissioners (BCC), the proposed resolution before the BCC today would adopt the Santa Fe County (County) Title VI Plan, which implements the County's program demonstrating compliance with Title VI of the Civil Rights Act of 1964 (Title VI) and related federal civil rights laws. The Plan is required to be eligible for federal transportation funding.

Upon further review minor mistakes were discovered in the proposed Title VI Plan. The required corrections are shown in redline on the attached pages.

BACKGROUND AND DISCUSSION:

The background for the proposed resolution is provided in Mr. Mathew's original memorandum to the BCC. Corrections are required on two pages of the proposed Title VI Plan, as follows:

- Page 18, 1st Paragraph, Line 6: Resolution "2015-172" is replaced with Resolution "2016-136" to reflect the BCC's most recent Resolution regarding compliance with the Open Meetings Act.
- Page 18, 3rd Paragraph, Lines 1-2: The changes indicated are necessary to accurately describe the use of newspaper advertisements to provide public notice of the BCC's meetings.

Page 35, 2nd Paragraph, Line 4: The change reflects the fact that several languages are spoken in the Pacific Islands.

Action Requested:

Staff recommends adoption of the Resolution approving the Santa Fe County Title VI Plan with the proposed changes shown on the attached pages.

EXHIBITS:

EXHIBIT A: Redlined Copy of Page 18 of the Title VI Plan.

EXHIBIT B: Redlines Copy of Page 35 of the Title VI Plan.

III. Public Participation Plan (PPP)

As a local government Santa Fe County is subject to the New Mexico Open Meetings Act (OMA), NMSA (1978) Sect. 10-15-1 et seq. Under this Act, with certain limited exceptions, the Board of County Commissioners (BCC) and all other County boards and commissions that formulate County policy must conduct the County's business in meetings that are open to the public. The OMA requires Santa Fe County to annually determine reasonable notice for public meetings. See County Resolution No. ~~20152016-172136~~. The BCC generally holds two regular open meetings on the second and fourth Tuesday of each month. The meetings and their agendas must be properly noticed to the public in advance of the meeting. All members of the public are invited to make public comment on any County business at all BCC and other public County meetings. The public is also permitted to engage in discussion on any agenda item that is up for approval or disapproval by the BCC. This is the method by which the County ensures that all members of the public, including low income and minority populations, have adequate notice and opportunity to access County officials and fully participate in County proceedings. In addition to public comment at the BCC meetings, all members of public may use the County website to file a public comment on issues or topics of concern.

All published notices of public County meetings include the following statement: "Santa Fe County makes every practical effort to assure that auxiliary aids or services are available for meetings and programs. Individuals who would like to request auxiliary aids or services should contact the Santa Fe County Managers Office at (505) 986-6200 in advance to discuss specific needs (e.g., interpreters for the hearing impaired or readers of the sight impaired)".

The BCC's ~~annual~~ meetings ~~s schedule are-is~~ advertised at the beginning of the year ~~40 days in advance~~ in the local newspaper. In addition, meeting notices and changes are posted at the County Administration Building and on the Santa Fe County website. Final agendas are posted on the webpage at least 3 days prior to the meeting.

The Santa Fe County Board of County Commissioners and the Transportation Advisory Committee:

Santa Fe County is governed by the BCC, which is comprised of 5 elected members who represent their respective districts. Commission District 1 is represented by Commissioner Henry P. Roybal; District 2 by Commissioner Anna Hansen; District 3 by Commissioner Robert A. Anaya; District 4 by Commissioner Anna Hamilton; and District 5 by Commissioner Ed Moreno.

The Transportation Advisory Committee (TAC) is a citizen advisory committee which makes recommendations to the BCC on elements of transportation. The TAC is composed of 13 members: two from Commission Districts 2, 4 and 5, and 3 from the



IX. Limited English Proficiency (LEP) Plan

The Four Factor Analysis to prevent discrimination on the basis of limited English Proficiency:

- Number or Proportion of LEP Individuals:**

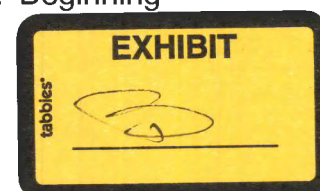
**US Census 2010-2014 American Community Survey 5 year Estimate			
Subject	Total	Speak English Very Well	Speak English Less Than Very Well
Population 5 Years and Over	138,713	89.5%	10.5%
Speak a Language Other than English (Total)	35.4%	70.4%	29.6%
Spanish	31.6%	68.7%	31.3%
Other Indo European	1.8%	86.5%	13.5%
Asian and Pacific Island	0.8%	70.3%	29.7%
All Other	11.0%	92.0%	8.0%
** Extract from US Census ACS Table			

From the table above it is estimated that 10.5% (14,565) of Santa Fe County residents over the age of 5 speak English less than very well. Of that portion of the population that speaks English less than very well: 31.3% speak Spanish, 29.7% speak Asian and Pacific Island languages, 13.5% speak other Indo European languages, and 8.0 % speak other languages.

By June 1, 2017, Santa Fe County will have a web link on the Santa Fe County website to Google Translator or similar software, which converts critical documents in English to the user's language. Critical documents will include, but are not limited to: the 2016 Sustainable Growth Management Plan (SGMP), the 2016 Sustainable Land Development Code (SLDC), the Santa Fe County Transportation Plan (when available for public comment), the Santa Fe County Title VI Plan, Title VI Notice and Complaint procedures; BCC meeting notices, public meeting notices for Community Plans or SLDC/ SGMP updates, and any special meetings scheduled for review and adoption of the Santa Fe County Transportation Plan.

- Frequency of Contact with the Program:**

Santa Fe County does not currently have records which indicate the frequency that LEP persons contact or access planning and transportation programs. Beginning



Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



EXHIBIT

2

Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

To: Santa Fe County Board of County Commissioners

From: Don Moya, Interim Finance Division Director

Via: Katherine Miller, County Manager

Date: January 6, 2017

Re: Request Authorization of the Use of District 3 Capital Funds, Per Capital Outlay Policy, Allocating \$50,000 for Capital Improvements and Equipment for the Stanley Cyclone Center project. (Finance Division/Don Moya) (Item Added)

BACKGROUND AND SUMMARY

In July, 2012, the Board of County Commissioners approved a Capital Improvement Plan, which included an allocation of \$200,000 for fiscal years FY 2013 and FY 2014. These allocations were made for capital projects within each district and only Commission District 3 has these prior year funds remaining.

The Stanley Cyclone Center (Center) project is nearing completion and the project team has identified the following pieces of capital equipment necessary for the Center to be fully operational when complete: bucking shoots, a livestock scale, livestock pens and a livestock wash rack. The current cost estimate for the identified need is \$50,000.

RECOMMENDATION

Utilizing the approved allocation balance for District 3, the Finance Division is recommending approval of funds for the capital improvements and equipment for the Stanley Cyclone Center.

Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Anna F. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager



REC CLERK RECORDED 02/22/2017

MEMORANDUM

DATE: *December 28, 2016*

TO: *Board of County Commissioners*

FROM: *Michael Kelley, Public Works Department Director*

VIA: *Katherine Miller, County Manager*

ITEM AND ISSUE: *BCC Meeting January 10, 2017*

Resolution 2017-____, A Resolution Authorizing the County Manager to Negotiate and Execute a Cost-Sharing Agreement with the City of Santa Fe to Fund the Construction of a Finished Water Storage Tank as Part of the Buckman Direct Diversion (Public Works/Erik Aaboe)

SUMMARY:

The original design of the Buckman Direct Diversion Regional Water Treatment Facility (BDD) included a four million gallon finished water tank that was not constructed in order to reduce the cost of the facility. This past summer, the City of Santa Fe submitted an application to the Water Trust Board / New Mexico Finance Authority for a loan / grant to partially fund the construction of the tank. On December 1, 2016, the BDD Board considered the recommendation to the BDD partners to approve matching funds for the construction of this tank. The BDD Board voted unanimously to approve this recommendation.

This cost sharing agreement between the City of Santa Fe (City) and Santa Fe County (County) would allocate the costs of this construction to each entity. The City Council is scheduled to consider this agreement on January 11, 2017. The cost sharing agreement must be approved and delivered to the Water Trust Board by January 26 to complete the readiness application phase of the loan / grant.

The current estimate of construction of the 4 million gallon tank is \$2.5 million and is based upon two quotes recently received by the City. The City would be responsible for the pre-construction

work including final design, preliminary engineering, archaeological and permitting, estimated at \$54,156. The construction and financing costs would be equally split between the City and County.

Approximate Cost Share	Water Trust Board / NMFA	City of Santa Fe	Santa Fe County
If loan / grant awarded by NMFA	\$895,843	$\$802,079 + \$54,156 = \$856,235$	\$802,079
If loan /grant not awarded by NMFA	\$0	$\$1,250,000 + \$54,156 = \$1,304,156$	\$1,250,000

BACKGROUND AND DISCUSSION:

At those times that the BDD cannot divert from the Rio Grande, an additional water storage tank adds value that benefits both of the BDD partners, adding redundancy and flexibility in providing a reliable potable water source. With additional finished water storage at the BDD operational costs can be reduced with off-peak pumping. City staff estimated the annual electrical cost savings to the BDD to be \$450,000 as presented at the 12/1/2016 BDD Board meeting. The estimate was based upon an analysis of on peak and off peak electrical charges. City staff later considered a more conservative estimate that included the challenges of shifting BDD to nighttime operation. In this scenario they project those savings from lower electrical costs at closer to at 50% of this ideal, or \$225,000.

The project is designed and is shovel-ready. Construction of the storage tank will reduce the County's reliance on the City's back-up water for a day or two each time the BDD stops diverting water from the Rio Grande. The County pays a higher rate for backup water to the City than water delivered from BDD. During operation, the tank will also allow more pumping to the 10-MG tank to occur off-peak. The project has been recommended for funding from the Water Trust Board in the 2017 legislative session.

Electrical pumping costs are allocated to each partner in the BDD based upon the volume of water delivered to each. This varies month to month. Historically, the County has received approximately 25% of the potable water delivered and the City 75%. Any savings afforded by the addition of this tank would accrue in this proportion to the partners.

Recent additional funding for capital improvement projects for the County's Water and Wastewater Utility has been made available by the Board, through the FY17 budgeting of capital Outlay GRT, and by the County's voters, through approval of the 2016 General Obligation Bond question. The table below shows projects from the County's Five Year Capital Plan that can be executed in the coming 2 years and that are prioritized by the Public Works Department.

Currently Unfunded Projects from Santa Fe County Five Year Capital Plan	
Senior Campus Wastewater Upsizing Reimbursement	\$ 225,000
Upgrade Meters and Meter Reading Equipment	\$ 250,000
Water Rights Purchases	\$ 500,000
Asset Management Software	\$ 225,000
	\$1,200,000

Should the Board of County Commissioners approve this cost sharing agreement, Public Works staff has identified some funding that may be made available to this project. For various reasons, some previously approved projects from the 2012 GO bond question have balances available that can be allocated to other water priorities of the board.

Unexecuted Water and Wastewater Projects from 2102 GO Bond Question	Balances Available	Notes
Aquifer Recharge and Storage	\$ 895,000	Determined technically infeasible
Master Meters	\$ 350,000	Negotiated to be City of Santa Fe responsibility
Greater Glorieta Water Supply Improvements - Phase I	\$ 508,493	Work completed with grant funding
Greater Glorieta Wastewater Collection and Water Reclamation	\$ 408,493	Community negotiated with existing facility
	\$ 2,161,986	

The difference between the currently available funding and the near term capital needs of the Utility is approximately \$962,000. That amount is sufficient to support the County's participation in the cost sharing agreement if the project is awarded funding from the Water Trust Board.

ACTION REQUESTED:

Approval of subject resolution.

THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY

RESOLUTION NO. 2017 - _____

A RESOLUTION AUTHORIZING THE COUNTY MANAGER TO NEGOTIATE AND EXECUTE A COST- SHARING AGREEMENT WITH THE CITY OF SANTA FE TO FUND THE CONSTRUCTION OF A FINISHED WATER STORAGE TANK AS PART OF THE BUCKMAN DIRECT DIVERSION PROJECT AND EXECUTE AND SUBMIT DOCUMENTS IN SUPPORT OF WATER TRUST BOARD FUNDING FOR THE TANK

WHEREAS, the City and the County own an undivided equal interest in the facilities comprising the Buckman Direct Diversion Project ("BDD Project"), excluding the Club at Las Campanas Separate Facilities, as provided in that certain Facility Operations and Procedures Agreement for the Buckman Direct Diversion Project, effective as of October 16, 2006, as amended by the First Amendment to the Facility Operations and Procedures Agreement for the Buckman Direct Diversion Project; and

WHEREAS, the BDD Board has recommended that the City of Santa Fe ("City") and Santa Fe County ("County") jointly fund the construction of a four (4) million gallon storage tank ("Tank") for finished water at the BDD Project for those times when the BDD Project cannot divert raw water, in order to provide redundancy, and to allow for off-peak time pumping; and

WHEREAS, the total construction cost for the Tank is estimated to not exceed \$2,500,000.00 ("Construction Costs"); and

WHEREAS, the pre-construction costs, including final design, preliminary engineering, and archeological and permitting work (if required), are estimated to be \$54,156.00 ("Pre-Construction Costs"); and

WHEREAS, the City has agreed to pay the Pre-Construction Costs; and

WHEREAS, the City has requested \$895,843.00 of the Construction Costs from the New Mexico Water Trust Board ("WTB") in the form of loan/grant funds; and

WHEREAS, the WTB has not acted on the City's request, and, therefore, it is unknown at this time whether any loan/grant will be made, the amount of the loan/grant (if any), or how much (if any) will be distributed between loan and grant funds; and

WHEREAS, the City and County desire to negotiate a cost-sharing agreement to pay the Construction Costs related to the Tank; and

WHEREAS, it is advisable to delegate authority to the County Manager to negotiate and execute the cost-sharing agreement with the City and submit documents to the WTB in support of the City's application for WTB funding for the Tank, so as to ensure that the agreement is timely executed and supporting documents timely submitted.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners (Board) of the County as follows:

1. The County Manager is authorized and directed to negotiate and execute on behalf of the County a cost-sharing agreement with the City for the Tank, subject to the following:

- a. the County's total cost share, including gross receipts tax and interest (if any) and administrative and other fees on any WTB loan, may not exceed \$940,000;
- b. the County's cost share shall be payable exclusively from general obligation bond proceeds and county capital outlay gross receipts tax revenues;
- c. use of general obligation bond proceeds for any portion of the County's cost share must be approved by the County's bond counsel; and
- d. the cost-sharing agreement shall contain such provisions concerning the County's entitlement to use of finished water stored in the Tank as the County Manager determines to be necessary or advisable.

2. Subject to the parameters set forth in Paragraph 1 above, the County Manager is authorized and directed to execute on behalf of the County and submit to the WTB and New Mexico Finance Authority such documents evidencing the County's support for WTB funding for the Tank project as she determines necessary or advisable.

3. If (i) the County's cost share would exceed \$940,000 for any reason or if revenue sources other than general obligation bond proceeds and county capital outlay gross receipts tax would be necessary to fund the County's cost share and (ii) the County Manager concludes that the Tank would nonetheless still be necessary and in the County's best interest, the County Manager may negotiate for BCC consideration and approval a cost-sharing agreement with the City under which the County's cost share would exceed \$940,000 and/or other or additional revenue sources would be used for the County's cost share.

PASSED, APPROVED, AND ADOPTED THIS 10th DAY OF JANUARY, 2017.

**BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

By: _____
(Print Name)

Its: Chair

ATTEST:

Geraldine Salazar, Santa Fe County Clerk

Date: _____

APPROVED AS TO FORM:



Gregory S. Shaffer, Santa Fe County Attorney

Date: 1/3/17

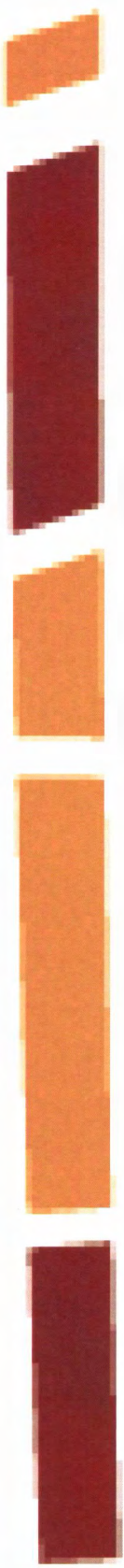
APPROVED:



Don D. Moya, Interim County Finance Director

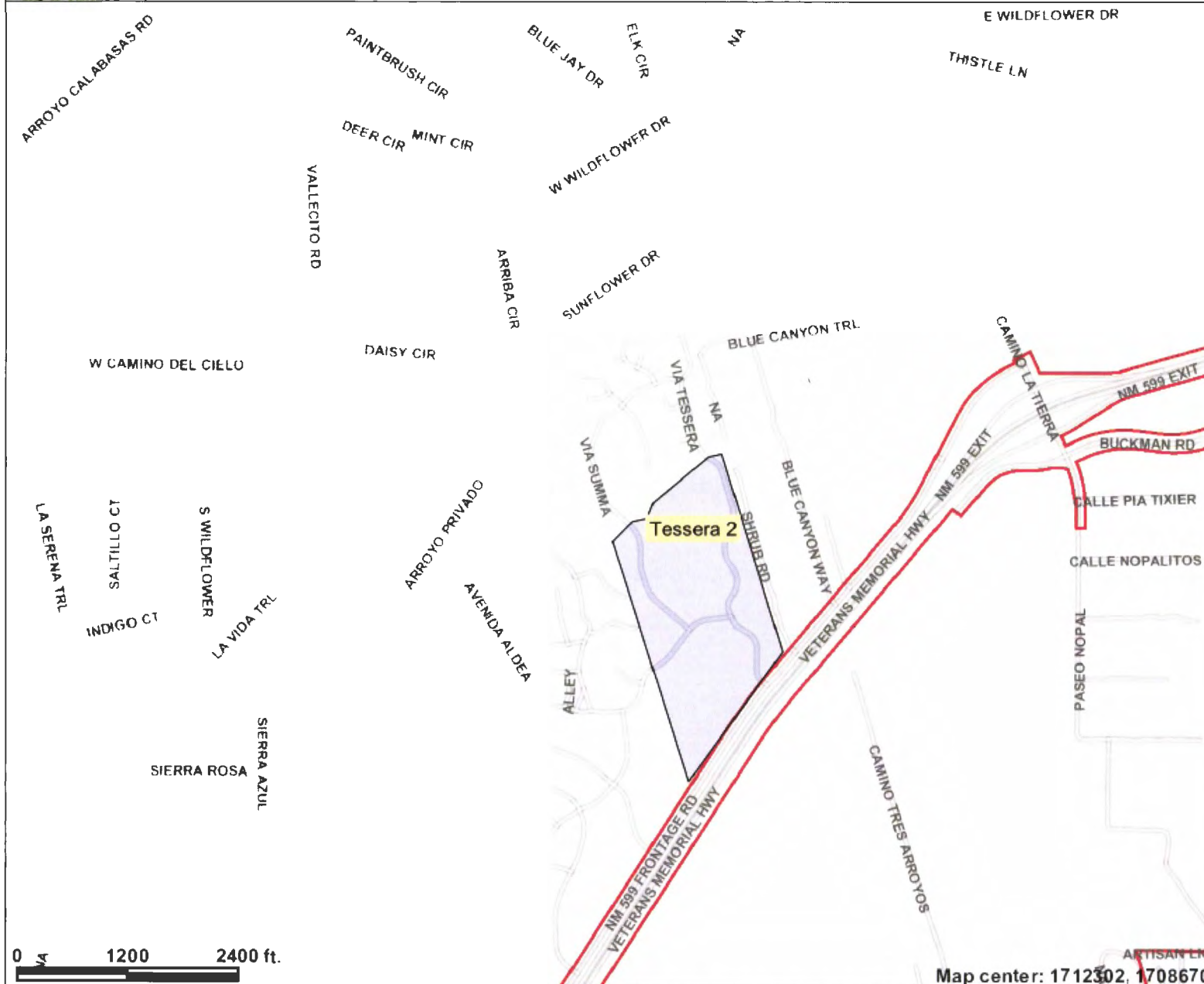
Date: 1-10-17

TESSERA





City of Santa Fe



Legend

- City Limits
- Other Roads and Streets

0 1200 2400 ft.

Map center: 1712302, 1708670

Scale: 1:20,248

This map is a user-generated static output from a web-based mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

Note: VICINITY MAP OF TESSERA 2



Legend
● Via Tessera

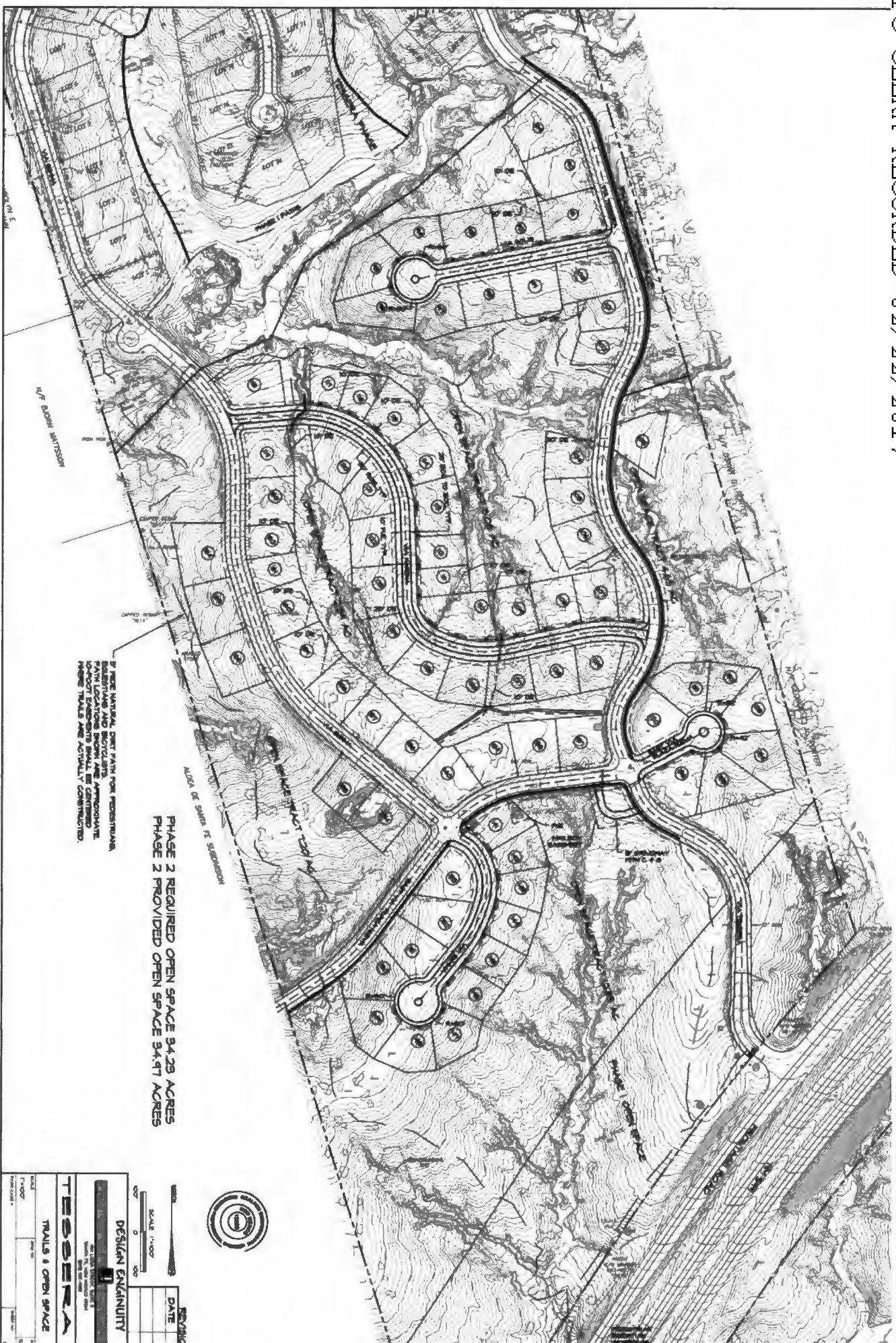
Via Tessera

4000 ft



TESSERA
TESSERA 2 DEVELOPMENT PLAN

441 LUNA STREET, SUITE C
SANTA FE, NEW MEXICO 87505
(505) 964-1997



SCALE 1"=100'

DATE

DESIGN ENDURANCE	
1	
TRAILS & OPEN SPACE	
SCALE	DATE
1"=100'	02/22/2017
PROJECT CODE	001



Exhibit B



SFC CLERK RECORDED 02/22/2017



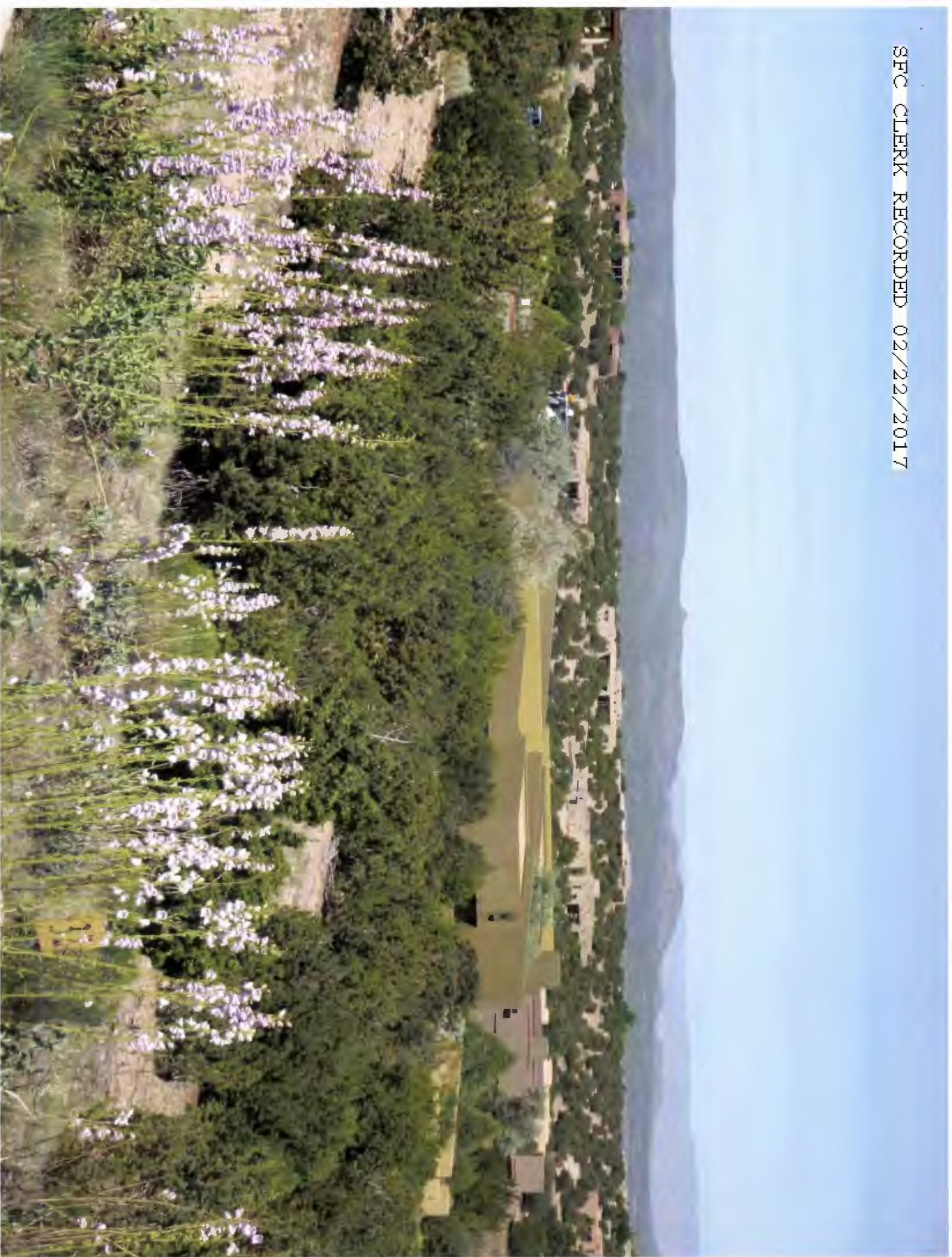
SFC CLERK RECORDED 02/22/2017



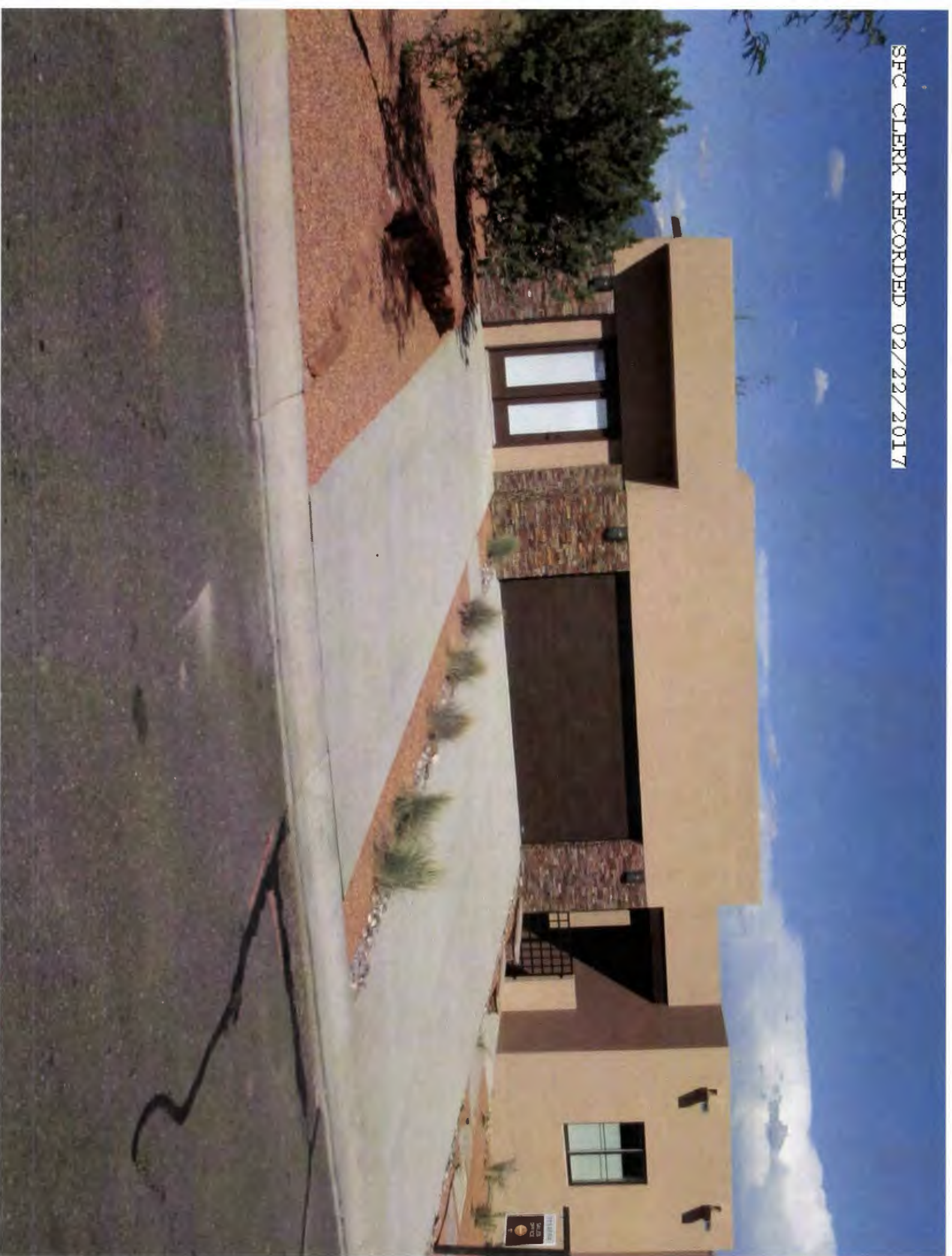




















SFC CLERK RECORDED 02/22/2017





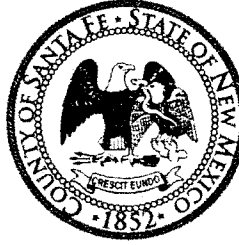
SFC CLERK RECORDED 02/22/2017



Henry P. Roybal
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kath
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager



SFC CLERK RECORDED 02/22/2017

DATE: September 15, 2016

TO: Santa Fe County Planning Commission

FROM: John Lovato, Development Review Specialist Sr. *[Signature]*

VIA: Penny Ellis-Green, Growth Management Director *[Signature]*
Vicki Lucero, Building and Development Services Manager
Wayne Dalton, Building and Development Services Supervisor

FILE REF.: CASE # V 16-5150 Hearts Way Ranch Variance

ISSUE:

Heart's Way Ranch, Susan Carter, Applicant, JenkinsGavin, Design & Development Inc., Agents, request three variances of the Sustainable Land Development Code (SLDC) to allow a retreat facility consisting of 2 casitas, a yoga area, and a main residence on 39.5 acres. The Applicant requests a variance of Chapter 7, Section 7.11.6.6 to allow the grade of the approach at the intersection to exceed 5%, a variance of Chapter 7.11.2, Table 7-13, to allow the overall grade of the driveway to exceed 10% in three separate locations in order to get to the casitas and main residence, and a variance of 7.11.2 Table 7-13 Local Road Design Standards to allow access from offsite roads that do not meet Code requirements. The 39.5 acre property is located at 34 Sendero de Corazon, via La Barbaria Trail within Section 9, Township 16 North, Range 10 East (Commission District 4), SDA-3

Vicinity Map:



SITE LOCATION

NBA-1

SUMMARY:

On August 25 2016, the 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 (Exhibit 12)

At the August 25, 2016, Hearing Officer Meeting, seven member of the public spoke in favor of the Application and four spoke in opposition of the Application. The major concerns of opposition was due to the road issues and congestion associated with La Barbaria Trail.

The Applicant is the owner of the property as evidenced by warranty deed recorded in the records of the Santa Fe County Clerk on January 15, 2016, as Instrument # 1784180. The Applicant is represented by JenkinsGavin Design and Development Inc., to pursue the request for the three proposed variances.

On August 25, 2016, the Application presented three variances to the Hearing Officer for Public Hearing. The three variances are as follows: a variance of Chapter 7, Section 7.11.6.6 to allow the grade of the approach at the intersection to exceed 5%; a variance of Chapter 7.11.2, Table 7-13, to allow the overall grade of the driveway to exceed 10% in three separate locations in order to get to the casitas and main residence; and a variance of 7.11.2 Table 7-13 Local Road Design Standards to allow access from offsite roads that do not meet Code requirements. The Hearing Officer in support of the Application memorialized her findings of fact and conclusions of law in written order, which is attached.

Currently, there is a 3,651 square foot residence, two casitas —1,100 square feet each, a 1,000 square foot garage located at the main residence, a 750 square foot workshop, and a 400 square foot carport. All structures have been permitted through Santa Fe County. One of the casitas was permitted as a studio and later converted into the casita without a permit. The site contains two wells and a septic system that supports the two units.

The property is a 39.57 acre tract within the Rural Fringe Zoning (RUR-F) area as defined by Ordinance 2015-11, Sustainable Land Development Code (SLDC), Chapter 8, Section 8.6.3. Appendix B of the SLDC designates a retreat as a permitted use within the Rural Fringe Zoning District. The Applicants agent submitted an Application for a Site Development Plan, to request a retreat. It was discovered after submittal that the approach to the intersection exceeds grade requirements of 5% for 100 linear feet, and the grade of the driveway is 17%-21% in 3 locations. Permits were obtained in 1994, for a driveway with grades up to 14%. The approval was granted in accordance with the Extraterritorial Zoning Ordinance which allowed for grades of 15%. However, the driveway was not constructed to the approved plans. Therefore, variances are being requested.

Building and Development Services staff has reviewed the Site Development Plan for compliance with pertinent SLDC requirements. The driveway grade of 5% for 100 linear feet upon an intersection and the overall driveway grade to get to the casitas and main residence exceeds the

NBA-2

required grade of 10%, and offsite roads do not meet the 20' driving surface. La Barbaria trail is a base course surface with a minimum width of 9 feet and a maximum width of 18 feet. The driveway that accesses the site is 14' in width with a base course surface and has pull out locations. Improvements were done for fire protection to include pull outs, and two 10,000 gallon water storage tanks with a draft hydrant that was placed at the main residence.

The Applicant addressed the variance criteria as follows:

1. Where the request is not contrary to the public interest.

The variance is requested for an existing private driveway and this is not contrary to the public interest. The driveway will be used primarily by the property owners for access to the single family residence at the top of the driveway. There will be four to six retreat guests that access the two casitas and provide overnight accommodations. In the past, full time tenants have rented the guest homes. Additionally, installing an automatic fire suppression system in the casitas and workshop will be in the public interest. The property owner implemented driveway improvements and the driveway is well constructed and in the context of the steep terrain which minimizes slope disturbance.

2. Where owing to special conditions, a literal enforcement of the SLDC would result in unnecessary hardship to the Applicant.

Special conditions exist that the subject lot comprised of steep terrain and reconstruction of the driveway would cause scarring of the hillside. The previous owner worked in collaboration with the County Fire Marshall in effort to conform to safety standards. Reconstruction of the driveway to the SLDC standards would result in unnecessary hardship to the Applicant.

3. So that the Spirit of the SLDC is observed and substantial justice is done.

Maintaining the existing driveway is consistent with the SLDC as stated in Section 1.4.2.20 "Ensure that building projects are planned, designed, constructed and managed to minimize adverse environmental impacts. The driveway was constructed to minimize adverse environmental impacts, while satisfying the requirements with emergency access and life safety.

Staff Response:

Although tenants have moved in and out of the casitas, this area is in an Extreme Wildland Fire Hazard Area. During inclement weather, and on slopes in excess of 10%, emergency access may

not be possible due to the severity of the steep slopes. The structures will be utilized as a retreat center, and the use may increase tenants which can increase traffic use. Chapter 14, Section 14.9.7.4, Variance Review criteria states, Where, owing to special conditions, a literal enforcement of the SLDC will result in unnecessary hardship to the Applicant. The road was not constructed per approved plan, but road design standards have changed since that time, and the Applicant is now requesting to change the use from residential to non-residential. Staff acknowledges that it would be difficult to widen the road width, reduce the road grade or widen these area without disturbing large amounts of 30% slope, and causing visual scarring.

Fire Review Comments:

- Fire is requiring that Roads shall meet the minimum County standards for fire apparatus access roads of a minimum 20' width. Roads, turnouts and turnarounds shall be County approved and all-weather driving surface and un-obstructed vertical clearance of 13'-6" within this type of proposed development.
- The Driveway /fire access shall not exceed 11% slope and shall have a minimum 28' inside radius on curves.
- The entrance gate at the top of Sendero Del Corazon shall be set to open further to allow for the increased turn and radius into the Casita B driveway.
- Due to the potential access issues and remote location of this project, for life safety and property protection this office shall require the installation of Automatic Fire Protection Sprinkler systems meeting NFPA13R requirements in the Casitas A&B.
- This development location is rated within an extreme Wildland Hazard Area and shall comply with all applicable regulations within the SFC Ordinance 2001-11/ EZA 2001-04 as applicable for the Urban Wildland Interface Code governing such area.
- This project shall also have a vegetation management plan as required by the Urban Interface Fire Code 2001-11. This plan shall be submitted in advance for review and approval. (Exhibit 3)

The Applicant addressed the variance criteria as follows:

1. Where the request is not contrary to the public interest.

The request is not contrary to the public interest. La Barbaria Trail is an existing local roadway which has been serving the vicinity for several decades. As stated in the variance criteria answers above, Hearts Way Ranch will be used by the property owners and their guests to access the existing residence and casitas.

2. Where, owing to special conditions, a literal enforcement of the SLDC will result in unnecessary hardship to the applicant:

The Local Road classification calls for two 10-foot wide driving lanes. As stated above, La Barbaria Trail lies within a 20-foot easement. The width of the easement, as well as the area's exceptional steep terrain, render it impossible to widen the road. A literal enforcement of the SLDC would result in unnecessary hardship to the applicant by essentially rendering access to Hearts Way Ranch an impossibility.

3. So that the spirit of the SLDC is observed and substantial justice is done.

This Variance request is intended to allow for a locally owned business with requisite zoning to move forward and commence operations. As stated above, Hearts Way Ranch is proposed sober-living wellness retreat center, which is permissible use in the Rural Fringe Zoning District. The request therefore observes the spirit of the SLDC as stated in Section 1.4.2.11: Accommodate within appropriate zoning districts, regulations for protection and expansion of local small businesses, professions, culture, arts and crafts including live/work, home occupations and appropriate accessory uses in order to support a balanced, vigorous local economy.

Staff Response:

Although the proposed use is permitted in this zoning district, all requirements of the Sustainable Land Development Code shall be met. La Barbaria Trail is a private road that does not meet the road standards of the Sustainable Land Development Code. La Barbaria trail is required to have a minimum of a 20 foot driving surface with two lanes that are 10 foot each, a 50 right of way, and adequate drainage. Many locations of La Barbaria Trail are 9 feet in width at minimum and 18' in width at maximum. There are limited areas that may allow for road width to be increased due to adjacent drainage and steep slopes in excess of 30%. The grade on this offsite road meets Code requirements and the road is in good condition.

The applicable requirements under the Santa Fe County Sustainable Land Development Code, Ordinance No. 2015-11 (SLDC), which govern this Application are the following:

Chapter 14, Section 14.9.7.1, Variances (Purpose) states:

The purpose of this section is to provide a mechanism in the form of a variance that grants a landowner relief from certain standards in this Code where, due to extraordinary and exceptional situations or conditions of the property, the strict application of the Code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner. The granting of an area variance shall allow a deviation from the dimensional requirements of the Code, but in no way shall it authorize a use of land that is otherwise prohibited in the relevant zoning district.

Chapter 14, Section 14.9.7.4, Variance Review criteria states:

A variance may be granted by only a majority of all the members of the Planning Commission (or the Board, on appeal from the Planning Commission) where authorized by NMSA 1978, Section 3-21-8(C):

1. Where the request is not contrary to public interest;
2. Where, owing to special conditions, a literal enforcement of the SLDC will result in unnecessary hardship to the applicant; and
3. So that the spirit of the SLDC is observed and substantial justice is done.

Chapter 14, Section 14.9.7.5 Variance Conditions of approval.

1. The Planning Commission may impose conditions on a variance request necessary to accomplish the purposes and intent of the SLDC and the SGMP and to prevent or minimize adverse impacts on the general health, safety and welfare of property owners and area residents.
2. All approved variances run with the land, unless conditions of approval imposed by the Planning Commission specify otherwise.
3. All approved variances automatically expire within one year of the date of approval, unless the applicant takes affirmative action consistent with the approval.

As required by the SLDC, the Applicant's agents presented the Application to the Technical Advisory Committee (TAC) on May 19, 2016.

Notice requirements were met as per Chapter 4, Section 4.6.3., General Notice of Application Requiring a Public Hearing, of the SLDC. In advance of a hearing on the Application, the Applicant provided an affidavit of posting of notice of the hearing, confirming that public notice posting regarding the Application was made for fifteen days on the property, beginning on August 10, 2016. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on August 10 2016, as evidenced by a copy of that legal notice contained in the record. Notice of the hearing was sent to owners of land within 500' of the subject property and a list of persons sent a mailing is contained in the record.

This Application for the three variances was submitted on May 26, 2016.

RECOMMENDATION:

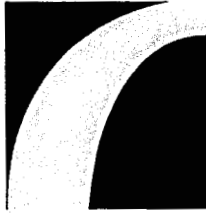
On August 25, 2016, the Application for a variance of Chapter 7, Section 7.11.6.6 to allow the grade of the approach at the intersection to exceed 5%; a variance of Table 7-13 to allow the grade of the driveway to exceed 10%; and a variance of 7.11.2 Table 7-13 Local Road Design Standards to allow access from offsite roads that do not meet Code requirements was presented to the Santa Fe County Hearing Officer. The Hearing Officer supported the Application as memorialized in the findings of fact and conclusions of law written order.

If the decision of the Planning Commission is to approve the Application, you may consider adopting the Hearing Officer's finding of fact and conclusion of law in the written recommendation. (Exhibit 13)

NBA-6

EXHIBITS:

1. Variance request
2. Proposed Plans
3. Fire Review
4. Aerial Photo of Site
5. Chapter 7, Section 7.11.6.6
6. Chapter 7, Section 11.2, Table 7-13
7. Chapter 14, Section 14.9.6.1
8. Notice
9. Letters Opposition
10. Letters of Support
11. August 25, 2016, Hearing Officer Meeting Minutes
12. Recommended Decision and Order
13. Draft Order



jenkinsgavin
DESIGN & DEVELOPMENT INC

May 27, 2016

Jose Larranaga, Development Review Team Leader
Santa Fe County
102 Grant Avenue
Santa Fe, NM 87501

**RE: Heart's Way Ranch Retreat
Variance Application**

Dear Jose:

This letter is respectfully submitted on behalf of Susan Carter and Shari Scott in application for a variance to be heard by the Hearing Officer on July 28, 2016 and by the Planning Commission at their meeting of September 15, 2016. The 39.57-acre subject property is located in La Barbaria Canyon, in SDA-3, and is zoned Rural Fringe.

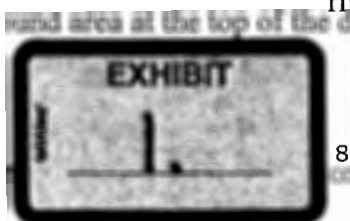
Project Background

A Site Development Plan has been submitted for Heart's Way Ranch, a proposed sober-living wellness retreat center on the subject property. Per the SLDC Use Matrix, retreats are a permissible use in the Rural Fringe zoning district. The property is improved with 8,001 square feet of single story structures as outlined below. The retreat center will utilize the existing buildings and access, and no new construction is proposed.

- Main Residence, two bedrooms – 3,651 sf
- Casita A, two bedrooms – 1,100 sf
- Casita B, two bedrooms – 1,100 sf
- Garage at main house – 1,000 sf
- Workshop – 750 sf
- Carport – 400 sf

Access

The property is accessed via La Barbaria Road (County Road 67F). From there, La Barbaria Trail and then Camino Tortuga lead to the access driveway, both of which are 20-foot wide Ingress, Egress, and Utility Easements as depicted on the Boundary Survey included in the submittal plans. The access drive (Sendero de Corazon) is 14 feet wide with five pull-out areas constructed along the driveway to permit vehicles to pass one another. Each pull-out area is a minimum of 10 feet wide and 70 feet long. There is also a vehicular gate equipped with a Knox Box and an emergency turnaround area at the top of the driveway at the main house.



NBA-7a

Fire Protection

There are two 10,000 gallon water storage tanks adjacent to the main house, which are connected to a draft hydrant. Furthermore, the casitas and workshop will be retrofitted with a NFPA 13-R automatic fire suppression system. Although portions of the driveway exceed a 10% grade, the site conditions have been inspected by the Fire Marshal. He has approved the access in consideration of the existing and proposed on-site fire protection systems, as well as the above described pull-out areas and turnaround.

Variance Requests

As stated above, portions of the existing driveway exceed the maximum allowable grade of 10%. Furthermore, the intersection of Sendero de Corazon at Camino Tortuga exceeds the maximum allowable 5% grade for the first 100 feet. Therefore, we are requesting two variances as detailed below.

- Variance from Table 7-13: *Rural Road Classification and Design Standards (SDA-3)*, to allow for greater than a 10% grade.
- Variance from Section 7.11.6.6: *Grades at the approach of intersections shall not exceed five percent (5%) for one hundred (100) linear feet prior to the radius return of the intersection, excluding vertical curve distance.*

The applicant's responses to the Review Criteria in 14.9.7.4 are outlined below.

1. *Where the request is not contrary to the public interest;*

The variance is requested for an existing private driveway and thus is not contrary to the public interest. The driveway will be used primarily by the property owners for access to the single family residence at the easternmost end of the drive, and by four to six retreat guests to access the two casitas that will provide overnight accommodations. Historically, the casitas have been rented to full time tenants, so the proposed retreat will actually result in a decrease in the use intensity of the property. Additionally, installing the above mentioned automatic fire suppression systems in the casitas and workshop will be in the public interest.

The property's previous owner implemented significant driveway improvements, and the driveway is well constructed in the context of the steep terrain. Its design minimizes site impacts while providing the requisite emergency access improvements.

2. *Where, owing to special conditions, a literal enforcement of the SLDC will result in unnecessary hardship to the applicant;*

NBA-8

Special conditions exist in that the subject property comprises very steep terrain. The above mentioned driveway improvements were constructed to minimize slopes while working within the constraints of the existing terrain. Reconstructing the driveway to comply with the grade requirements of the SLDC would excessively damage the terrain and would also be prohibitively expensive. As described above, the previous owner improved the driveway in collaboration with the County Fire Marshal, in an effort to conform to safety standards as much as possible given the naturally occurring site constraints. Thus, reconstructing the driveway to SLDC standards would result in unnecessary hardship to the applicant.

3. *So that the spirit of the SLDC is observed and substantial justice is done.*

Maintaining the existing driveway conditions is consistent with the Purpose and Intent of the SLDC as stated in Section 1.4.2.20: "*Ensure that building projects are planned, designed, constructed, and managed to minimize adverse environmental impacts...*" The driveway was constructed with the intent to minimize adverse environmental impacts, while satisfying the requirements for emergency access and life safety. Reconstructing the driveway to meet SLDC standards would be counter to the spirit of the SLDC. The required improvements would have significant negative impacts by scarring the hillsides, destroying natural vegetation, and necessitating extensive retaining walls that would create not only an environmental impact, but a negative visual impact for the surrounding neighborhood. Moreover, it meets the purpose of the road design standards as stated in SLDC Section 7.11.1.4: "*Provide for economy of land use, construction, and maintenance;*" and Section 7.11.1.5: "*Provide safe and efficient access to property.*"

In closing, the existing driveway design respects the natural terrain and rural beauty of the site, while addressing emergency access needs with the pull-outs and turnaround area. Furthermore, extensive efforts have been made to ensure life safety with the provision of 20,000-gallons of water storage and the installation of new automatic fire protection systems.

In support of this request, attached are a Development Permit Application and fee of \$600.00 (\$300.00 per variance). Your consideration of this application is greatly appreciated. Please contact me should you have any questions or require additional information. Thank you.

Respectfully,

JENKINS GAVIN, INC.



Jennifer Jenkins

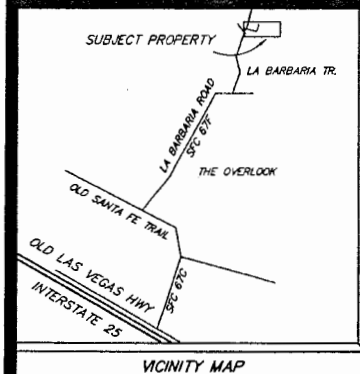
NBA-9

34 Sendero de Corazon Lot 4, S9, T16N, R10E Site Development Plans

34 Sendero de Corazon

11

2.



SCALE: 1" = 100'

LEGEND

- USGLO Brass Caps found and used, 5/8" EAST OF LINE
- Points found and used as noted
- 1/2" Capped iron pin set this survey
- Power poles
- Fences
- Walls
- Concrete

N/F
ELLEN J. SOUBERMAN
INSTR. No. 1547050

NOTES

1. BASE OF BEARING: GPS OBSERVATION OF THE NORTH BOUNDARY OF LOT 4, (N 89°54'42" E), MGS 84, GEODETIC, LOCAL.
2. THIS SURVEY IS BASED ON A PLAT OF SURVEY FOR "LAWRENCE TUCHMAN..." BY RICHARD E. SMITH, PS 5837, LAST RECORDED IN PLAT BK. 357 AT PAGE 006, RECORDS OF SANTA FE COUNTY, NM. BEARINGS AND DISTANCES IN () ARE FROM SAID PLAT.
3. REFERENCE PLATS:
PLAT OF SURVEY FOR RICHARD N. STARKE & OAKE A. STARKE RECORDED IN PLAT BK. 533, P. 032
PLAT OF SURVEY FOR "JAMES G. LOPEZ ESTATE..." BY GARY E. DAWSON, PS 7014, RECORDED IN PLAT BK. 254 AT PAGE 027
PLAT OF SURVEY FOR "ANN DASBURG..." BY CIPRIANO MARTINEZ, PS 3995, RECORDED IN PLAT BK. 148 AT PAGE 010, RECORDS OF SANTA FE COUNTY, NM.
4. REFERENCE DEED: BK. 2551, P. 386.
5. FEMA FIRM PANEL No. 35049C-04190. ZONE X.

CERTIFICATE

I, Philip B. Wiegell, a duly registered Professional Surveyor in the State of New Mexico hereby certify that I conducted and am responsible for this survey, that this survey and plat represent an actual survey made in the field by me or under my direction, that it meets the Minimum Standards for Surveys in New Mexico and that the information contained herein is true and correct to the best of my knowledge, information and belief.

I further certify that this survey is not a land division or subdivision as defined in the New Mexico Subdivision Act and that this is a boundary survey plat of an existing tract or tracts.

Philip B. Wiegell
Philip B. Wiegell
P.O. Box 22773

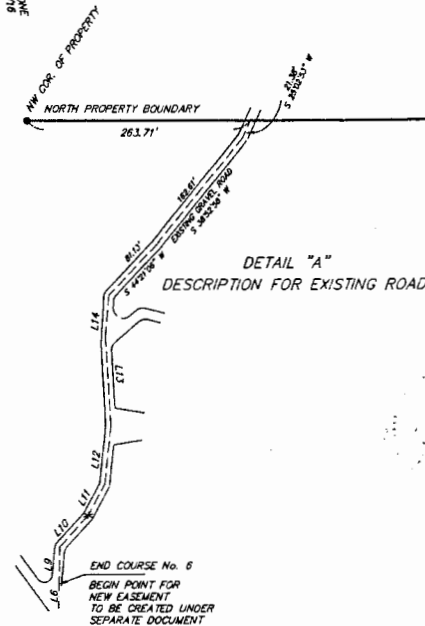
19 SEPTEMBER, 2013

P.S. No. 9758
Santa Fe, NM.



LINE TABLE		
LINE	DIRECTION	DISTANCE
L1	N 31°00'00" W	49.35
L2	N 34°25'00" W	49.13
L3	N 06°45'41" W	39.21
L4	N 15°43'01" W	15.19
L5	N 00°05'51" W	20.34
L6	N 02°08'33" E	28.20
L7	N 04°06'16" W	113.79
L8	N 15°18'21" W	15.76
L9	N 01°35'22" E	43.34
L10	N 42°34'37" E	50.05
L11	N 28°50'30" E	41.70
L12	N 04°38'59" E	69.49
L13	N 03°07'15" W	104.70
L14	N 05°50'42" E	48.05

CURVE TABLE				
CURVE	RADIUS	LENGTH	CHORD	BEARING
C1	30.00'	23.54'	22.94'	N 18°22'08" E
C2	80.00'	20.23'	20.18'	S 22°31'08" E
C3	300.00'	181.68'	178.92'	S 19°29'04" W
C4	175.00'	134.34'	131.07'	S 17°53'18" W
C5	50.00'	80.77'	57.10'	N 05°03'29" E



PLAT OF BOUNDARY SURVEY FOR THE LOFTON SCHULTHEIS FAMILY TRUST

LOT 4, S 1/2 N 1/2 NE 1/4 SECTION 9,
T 16 N, R 10 E, N.M.P.M.,
SANTA FE COUNTY, NEW MEXICO.

764025



LOT 3
N/F
KENNETH & SANDRA ROWLEY
INST. No. 1661495
PLAT BK. 254, P. 027

LOT 2
N/F
KENNETH & SANDRA ROWLEY
BK. 1328, P. 848
PLAT BK. 254, P. 027

LOT 1
N/F
FRANCES & DENEZ LOPEZ
BK. 1041, P. 344
PLAT BK. 254, P. 027

LOT 4
39.5662 ACRES±

SANTA FE NATIONAL FOREST

COUNTY OF SANTA FE
STATE OF NEW MEXICO
I hereby certify that this instrument was filed for record on the 14th day of October, 2013, at 9:16:14 a.m., and was duly recorded in Book 244, Page 025 of the records of Santa Fe County.

Witness my Hand and Seal of Office
GERALDINE SANCHEZ
County Clerk, Santa Fe County, New Mexico

INDEXING INFORMATION FOR COUNTY CLERK
BOUNDARY SURVEY

OWNER: RICHARD & DALE STARKE

LOCATION: 34 SENDERO DE CORAZON
LOT 4, S 1/2 N 1/2 NE 1/4, SEC. 9, T 16
R 10 E, N.M.P.M.
UPC: 1-057-095-397-417

SANTA FE COUNTY, N.M.

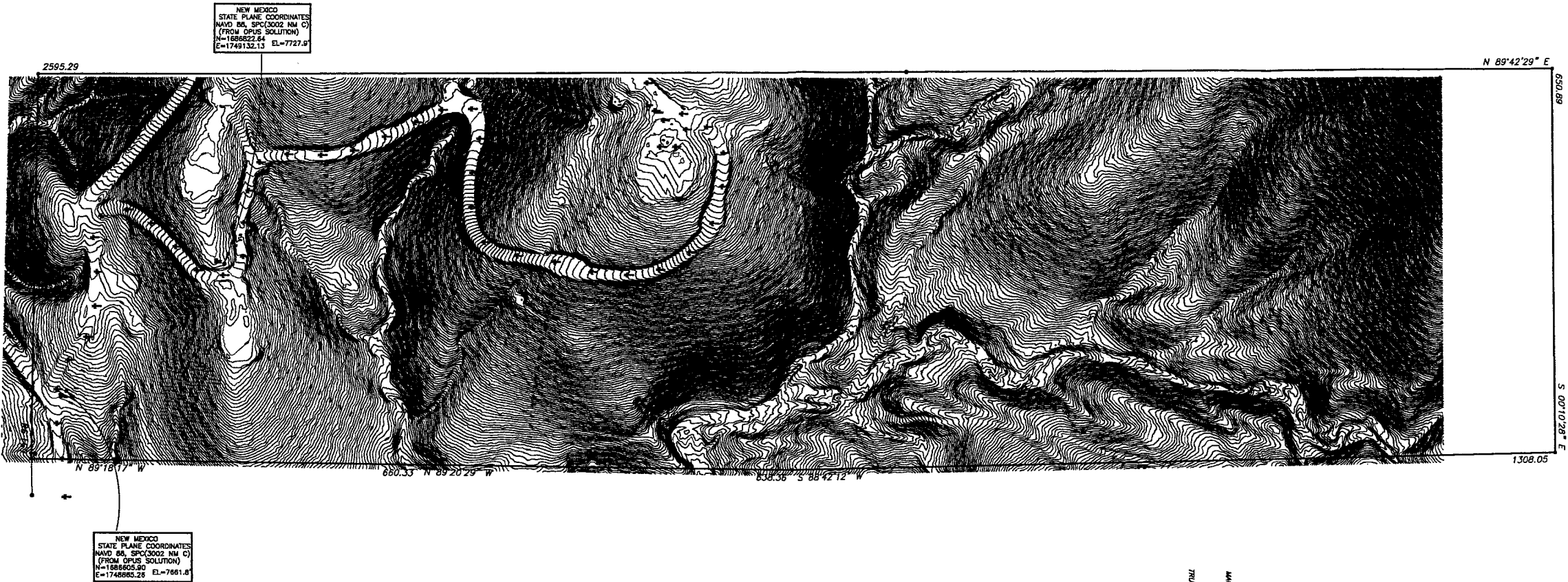
DEL RIO SURVEYS, INC.

PO BOX 22773 SANTA FE, NM 820-9200

Project No. 13090588 Date 9/19/13

PUBLIC NOTICE
THE SANTA FE COUNTY LAND USE ADMINISTRATOR HAS NOT REVIEWED THIS PLAT OF SURVEY BEFORE ITS FILING IN THE OFFICE OF THE COUNTY CLERK. THIS PLAT IS NOT BEING FILED FOR THE PURPOSE OF CREATING A SUBDIVISION OR NEW LOTS, ALTERING THE BOUNDARIES OF ANY EXISTING LOTS OR FOR THE PURPOSE OF "DEVELOPMENT" AS DEFINED IN THE SANTA FE COUNTY LAND DEVELOPMENT CODE, EXTRATERRITORIAL ZONING ORDINANCE OR EXTRATERRITORIAL SUBDIVISION REGULATIONS. THIS STATEMENT DOES NOT IN ANYWAY REPRESENT APPROVAL OF THIS PLAT.

TOPOGRAPHIC PLAN ONLY NOT A BOUNDARY SURVEY



ORIENTATION NOTE:
THE BOUNDARY OF LOT 4 HAS BEEN ROTATED TO MATCH
THE STATE PLANE COORDINATE SYSTEM FOR THE USE OF THE SANTA
FE COUNTY DATA BASE TOPOGRAPHIC PLAN SHOWN HEREON. ALL
TOPOGRAPHIC DATA SHOWN HEREON IS STATE PLANE COORDINATE SYSTEM GRID.

ACCURACY NOTE:
THE SANTA FE COUNTY TOPOGRAPHIC INFORMATION USED HEREON HAS BEEN
FIELD VERIFIED ON 3/25/2016 BY 50 ELEVATION CHECK SHOTS OF
WHICH NONE OF THE SHOTS TAKEN ARE IN ERROR BY NO
MORE THAN ONE-HALF OF THE CONTOUR INTERVAL.
THIS MAP HAS BEEN TESTED FROM AN INDEPENDENT SOURCE OF HIGHER
ACCURACY AND MEETS THE MINIMUM STANDARDS FOR A TOPOGRAPHIC MAP
COMPILED AT A SCALE OF 1"=100' WITH A CONTOUR INTERVAL OF 1'.

LEGEND & NOTES

- DENOTES POINT FOUND AS PER PLAT OF NOTE#1
OR NAIL SET FOR OPUS SOLUTION BENCHMARK
- DENOTES POINT CALCULATED
- CONTOUR INTERVAL = 1'

1. "PLAT OF BOUNDARY SURVEY FOR LOFTON SCHULTHEIS FAMILY TRUST"
BY PHILIP B. WIEGEL NMPS#9758 AND RECORDED IN THE OFFICE OF
THE SANTA FE COUNTY CLERK IN PLAT BOOK 764, PG. 025.
THE BOUNDARY INFORMATION SHOWN IS DIRECTLY FROM THIS PLAT
ALIGN TO MATCH POINTS FOUND AS INDICATED AND ROTATED TO MATCH
THE STATE PLANE SYSTEM BEARING BASE DETERMINED BY OPUS
SOLUTION POINTS SHOWN.

SURVEYORS CERTIFICATE

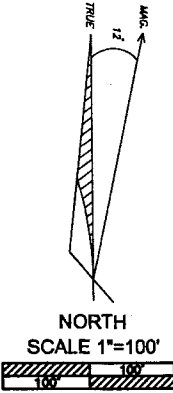
I HEREBY CERTIFY THAT THIS TOPOGRAPHIC PLAN HAS BEEN POSITIONED AND
VERIFIED FOR ACCURACY BY ME OR UNDER MY DIRECTION ON 3/25/2016 AND
MEETS THE MINIMUM STANDARDS FOR SURVEYS IN NEW MEXICO AND IS TRUE AND
CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

RICHARD A. CHATROOP

NMPLS#11011

3/25/16

DATE



COUNTY OF SANTA FE
STATE OF NEW MEXICO
I hereby certify that this instrument was filed
for record on the _____ day of _____ A.D.
20____ at _____ o'clock _____ m.
and was duly recorded in book _____ of the records of
page _____ Santa Fe County.
Witness my Hand and Seal of Office

County Clerk, Santa Fe County, N.M.

Deputy

TOPOGRAPHIC PLAN
OF

LOT 4, 39.5662 ACRES±

SFC CLERK RECORDED 02/22/2017

LYING WITHIN SECTION 9 T16N, R10E, NMPM, SANTA FE CO., NM.

RICK CHATROOP
PROFESSIONAL LAND SURVEYOR

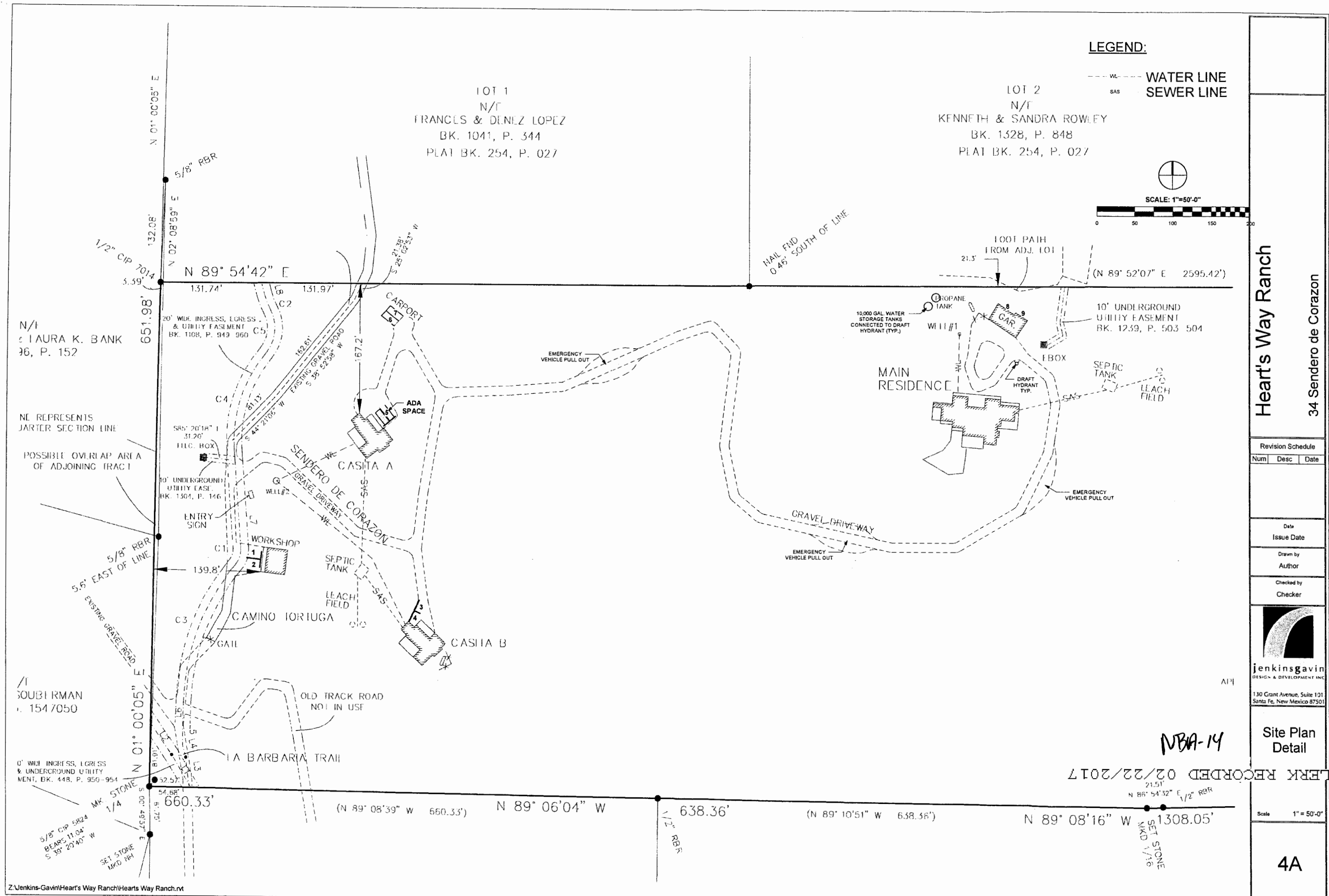
NEW MEXICO REGISTRATION NO. 11011

(505) 470-0037 110 WAGON TRAIL RD. CERRILLOS, NM 87010

INDEXING INFORMATION FOR THE COUNTY CLERK

OWNER:

LOCATION: LYING WITHIN SECTION 9 T16N, R10E, NMPM, SANTA FE CO., NM.



Heart's Way Ranch

34 Sendero de Corazon

Revision Schedule		
Num	Desc	Date

Date _____
Issue Date _____

Drawn by
Author

Checked by
Checker



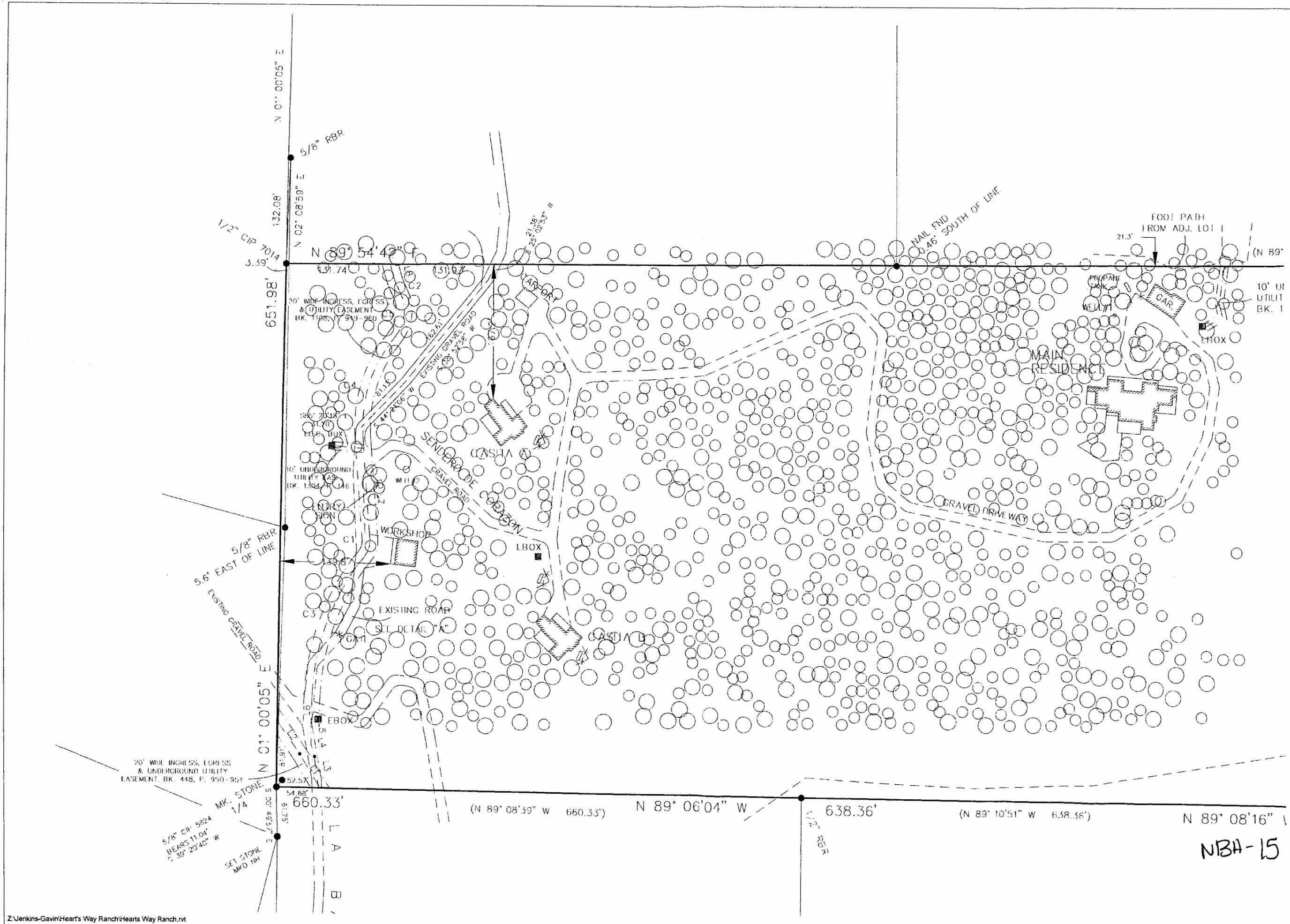
enkingavin
DESIGNS & DEVELOPMENT INC.

30 Grant Avenue, Suite 101
Santa Fe, New Mexico 87501

Site Plan Detail

1" = 50'-0"

4A



Heart's Way Ranch

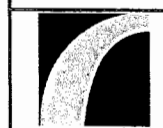
34 Sendero de Corazon

Revision Schedule		
Num	Desc	Date

Date
Issue Date

Drawn by
Author

Checked by
Checker



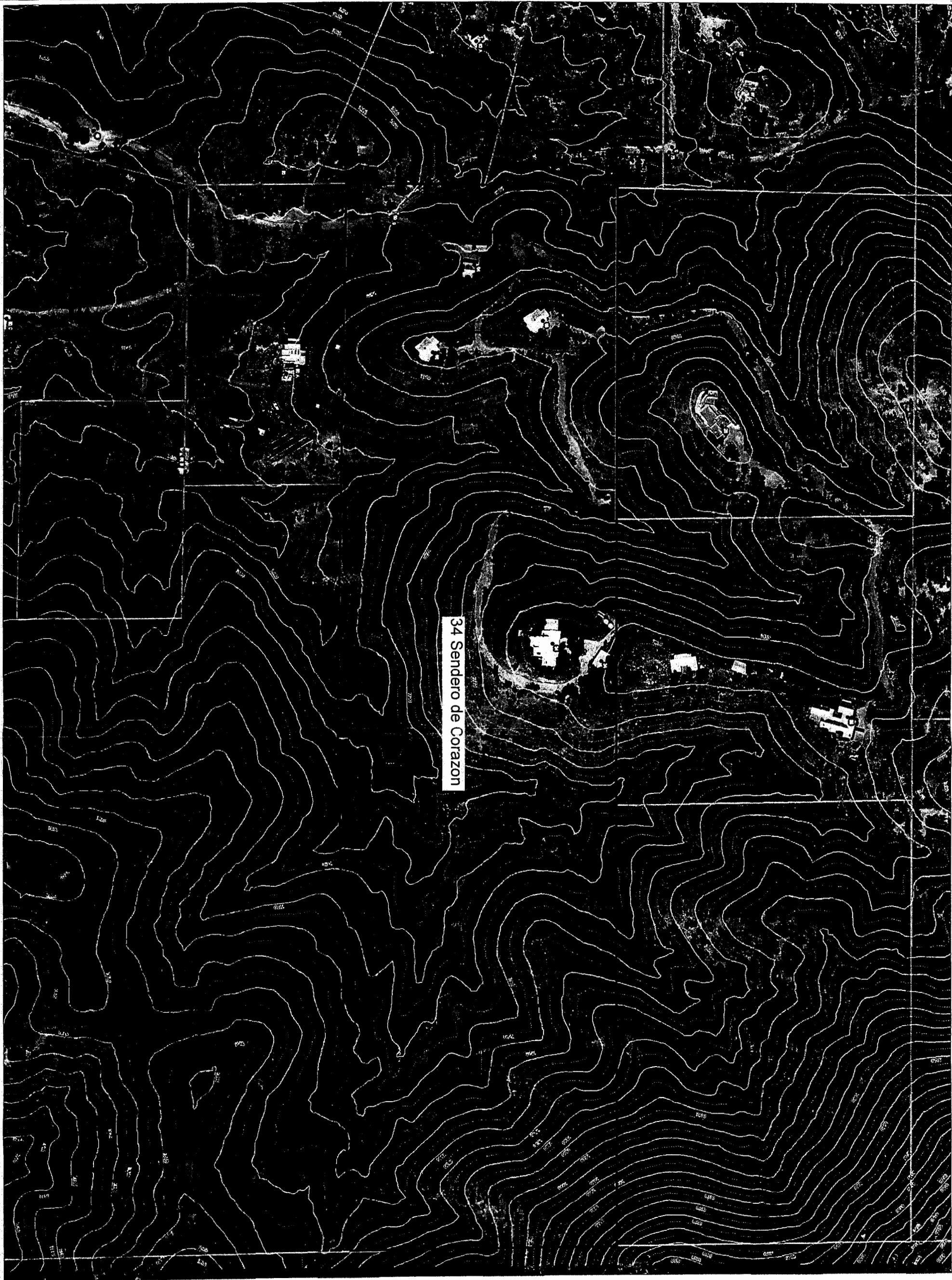
jenkinsgavin
design & development inc.

130 Grant Avenue, Suite 101
Santa Fe, New Mexico 87501

Landscape
Plan -
Overall

Scale 1" = 50'-0"

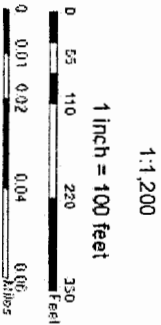
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34 Sendero de Corazon

Heart's Way Ranch

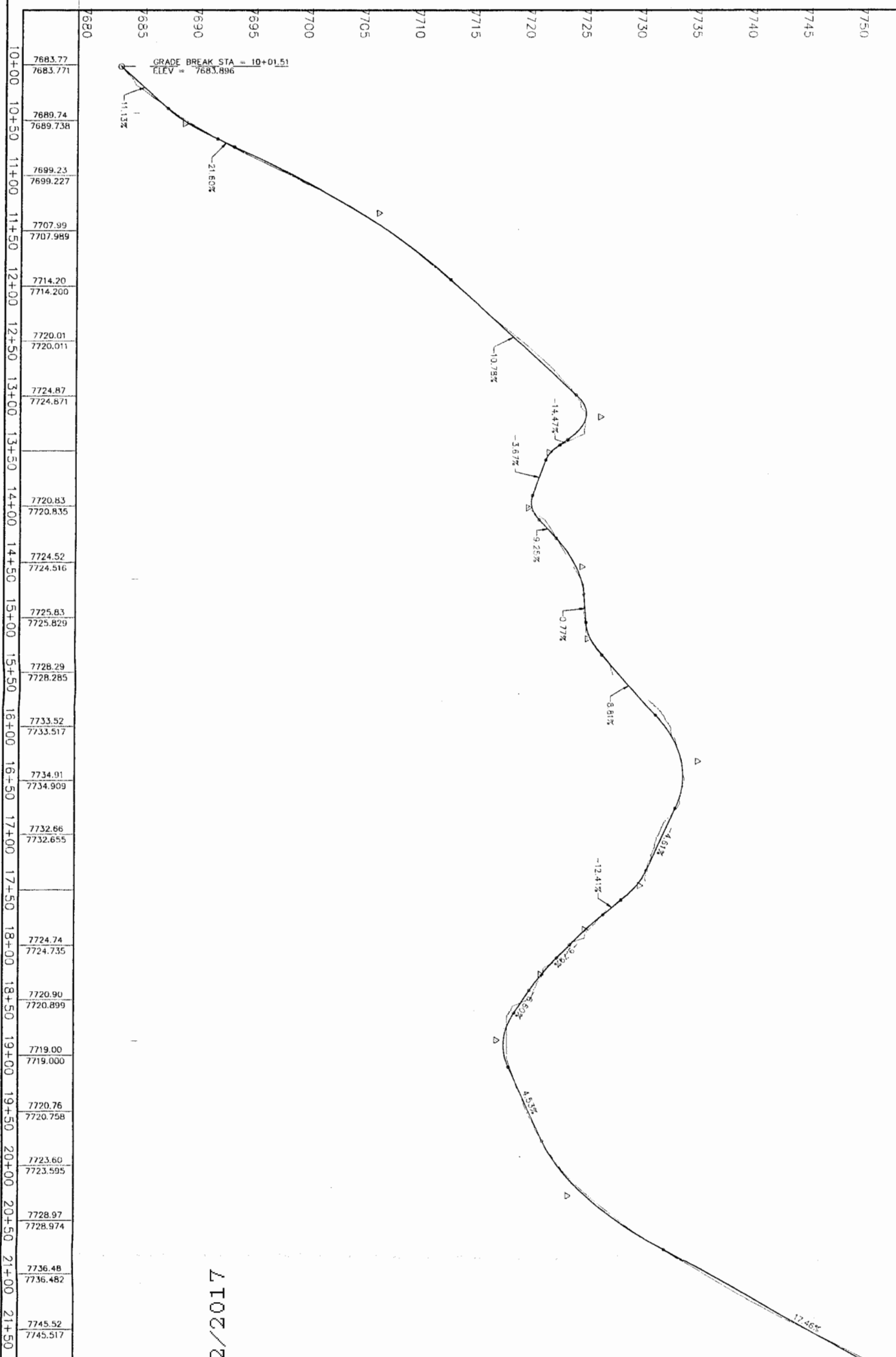
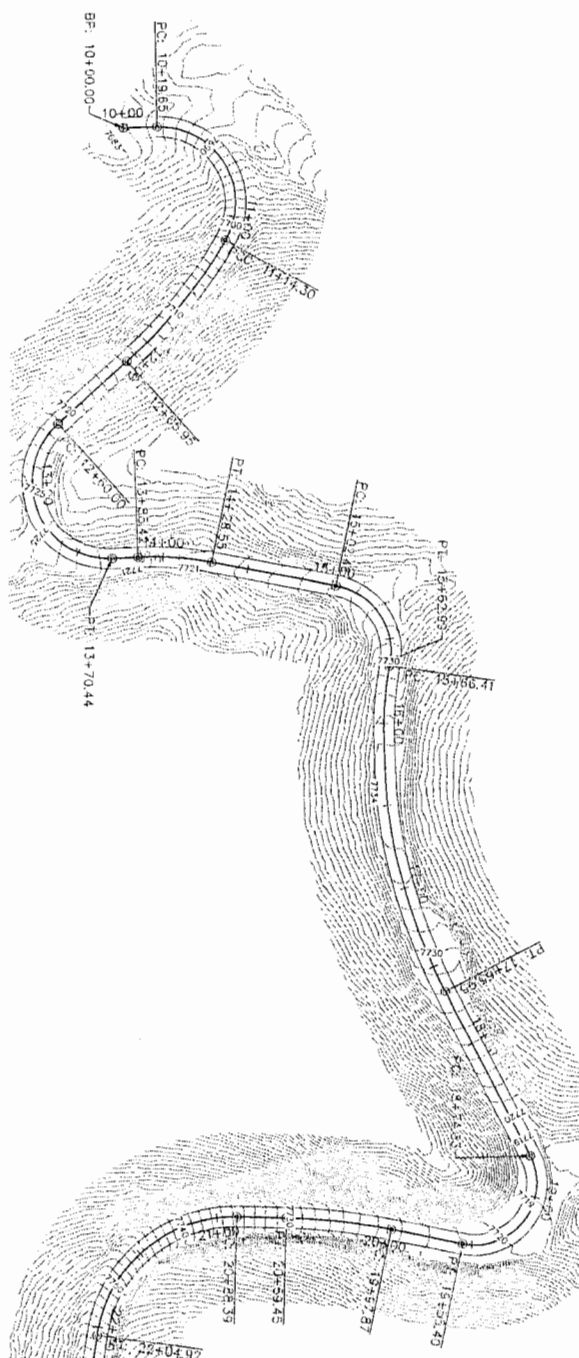
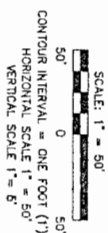
34 Sendero de Corazon



Aerial

5C

NR 114



SEE SHEET 6D FOR CONTINUATION

130A-19

SFC CLERK RECORDED 02/22/2017

[illegible]

PROJECT:	HEART'S WAY RANCH 34 SENDERO DE CORAZON
SHEET TITLE:	DRIVEWAY PLAN AND PROFILE



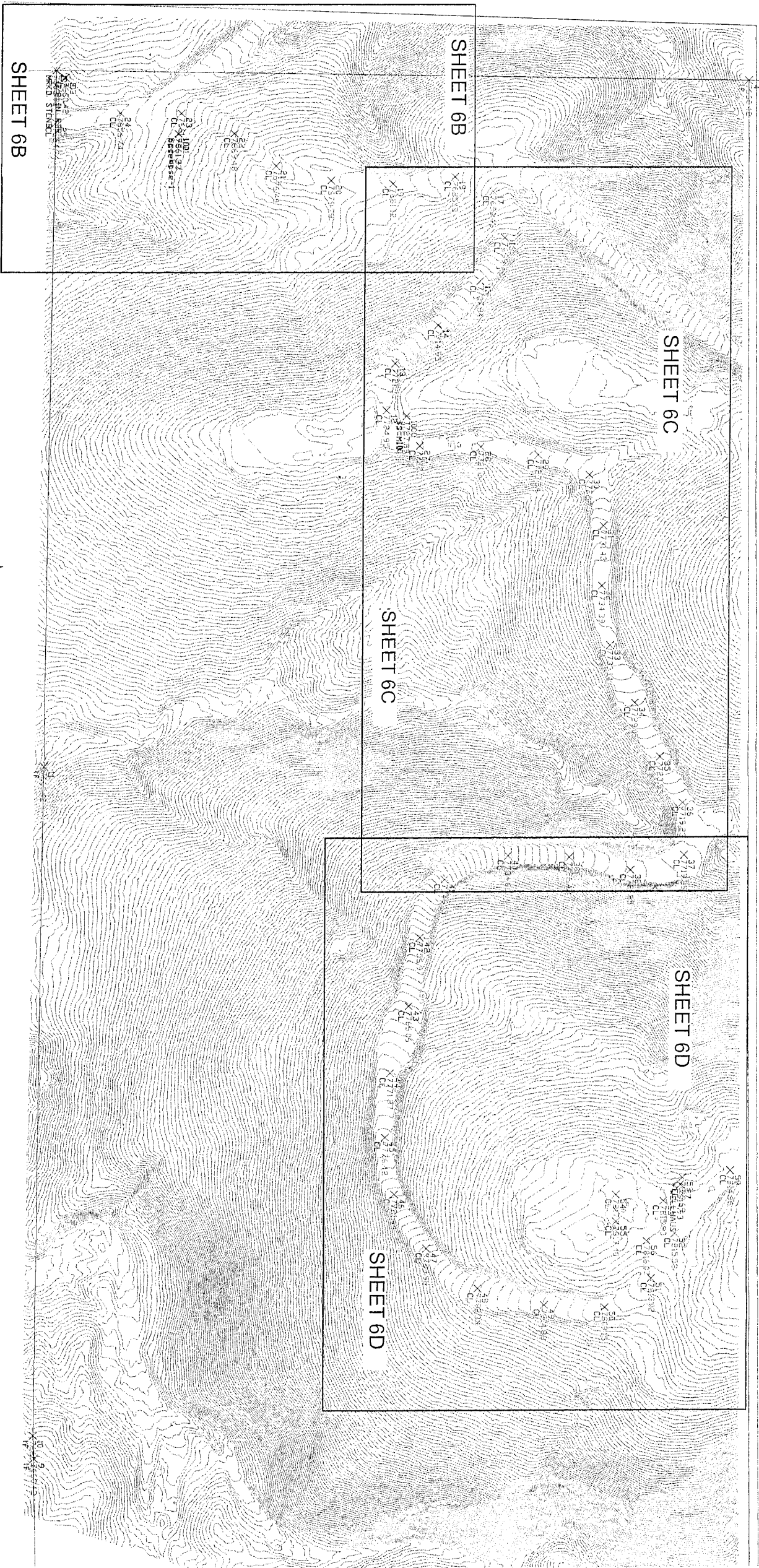
No.	REVISION	BY	APP.	DATE
PROJECT:	16-131	DESIGNED BY:	P.L.D.	
FILE:	131 GRADE	DRAWN BY:	P.L.D.	
DATE:	07/21/16	CHECKED BY:	M.E.W.	
SCALE:	AS NOTED			

Civil Engineering • Water Resources • Traffic Engineering

W·E Walker Engineering

905 Camino Sierra Vista, • Santa Fe, NM 87505

505-820-7990
FAX 505-820-3530
E-MAIL civil@walkerengineering.net



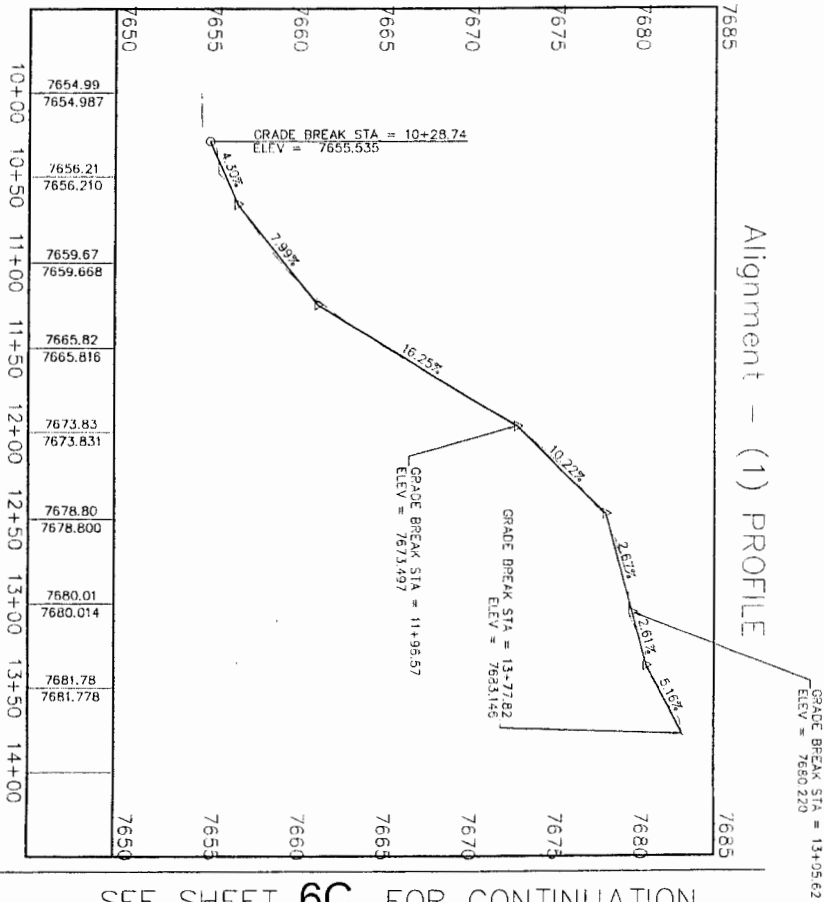
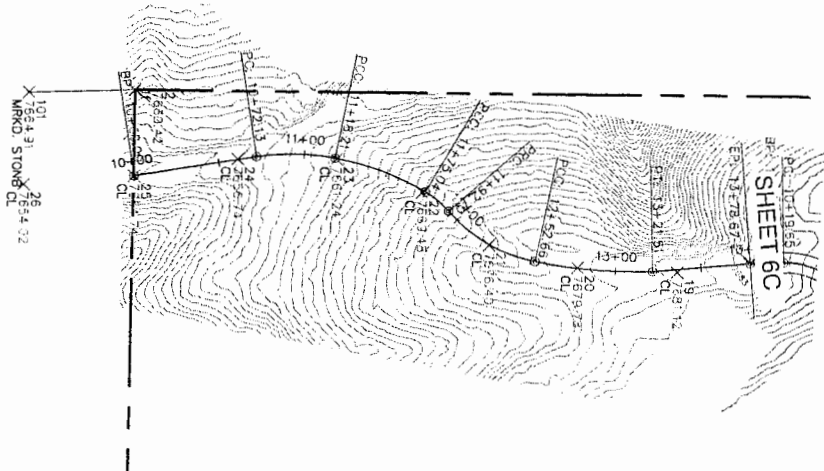
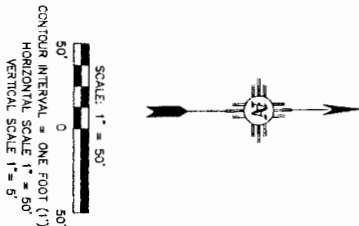
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50' 0 50'
CONTIG. AREA = ONE FOOT (1')
HORIZONTAL SCALE 1" = 50'

SFC CLERK RECORDED 02/22/2017

NSA-17

6A

SHEET NO.	COUNTY		REVIEW	PROJECT:	No.	REVISION	BY	APP.	DATE	Civil Engineering • Water Resources • Traffic Engineering W•E Walker Engineering 905 Camino Sierra Vista, • Santa Fe, NM 87505 505-820-7900 FAX 505-820-3530 E-MAIL civil@walkerengineering.net
	DEPARTMENT		SIGN-OFF	DATE		HEART'S WAY RANCH		DESIGNED BY: P.L.B.		
	LAND USE PLANNER					34 SENDERO DE CORAZON		DRAWN BY: P.L.B.		
	PUBLIC WORKS DIRECTOR					SHEET TITLE: DRIVEWAY SHEET LAYOUT		CHECKED BY: M.E.W.		
S.F. WATER COMPANY					DATE: 04/19/16		SCALE: AS NOTED			



100-18

6B

COUNTY REVIEW		
DEPARTMENT	SIGN-OFF	DATE
LAND USE PLANNER		
PUBLIC WORKS DIRECTOR		
S.F. WATER COMPANY		
COUNTY USE ONLY		

PROJECT: **HEART'S WAY RANCH**
34 SENDERO DE CORAZON

SHEET TITLE: **DRIVEWAY**
PLAN AND PROFILE

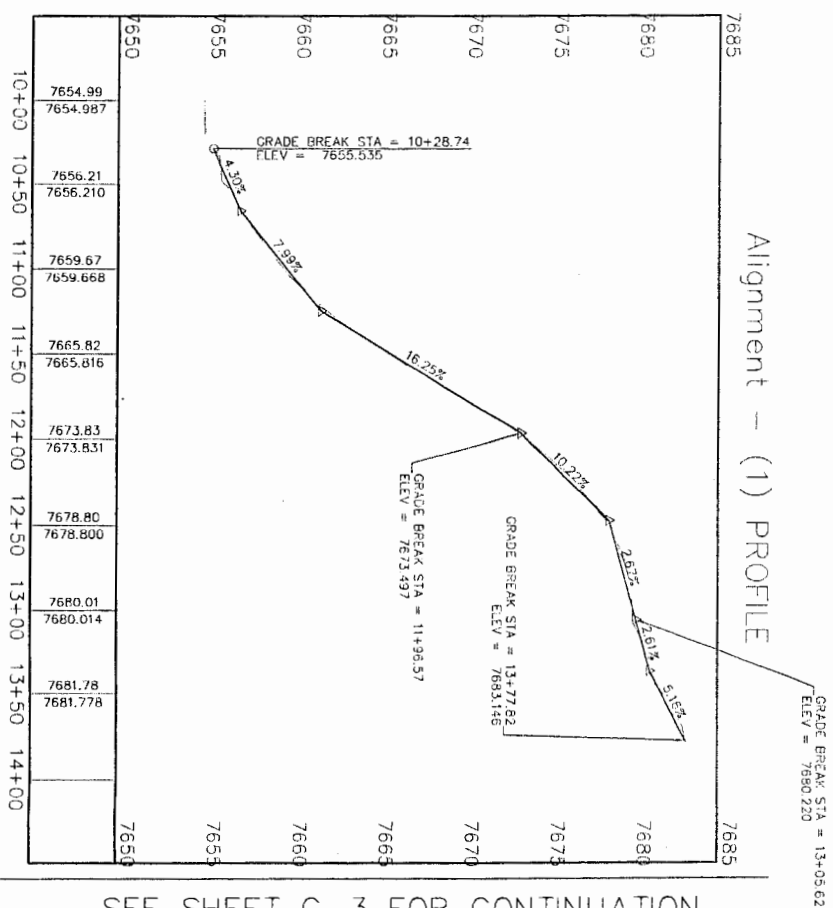
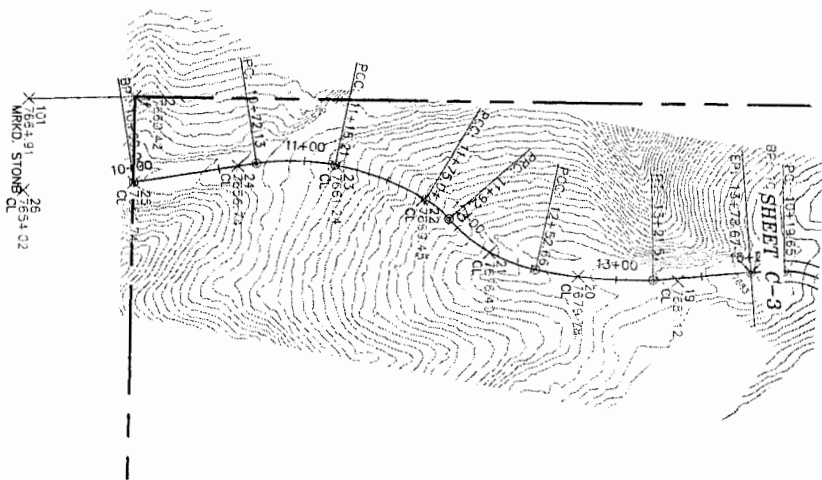
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PROJECT:	10-131	DESIGNED BY:	P.L.D.	
FILE:	131 GRADE	DRAWN BY:	P.L.D.	
DATE:	04/19/10	CHECKED BY:	M.E.W.	
SCALE:	AS NOTED			

Civil Engineering • Water Resources • Traffic Engineering

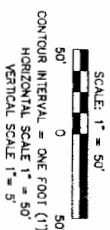
W. E. Walker Engineering

905 Camino Sierra Vista, • Santa Fe, NM 07505

505-820-7090
FAX 505-820-3530
E-MAIL: civil@walkengineering.net



SEE SHEET C-3 FOR CONTINUATION



SFC CLERK RECORDED 02/22/2017

USA-21

2

COUNTY REVIEW		
DEPARTMENT	SIGN-OFF	DATE
LAND USE PLANNER		
PUBLIC WORKS DIRECTOR		
S.F. WATER COMPANY		
COUNTY OF SF ONLY		

PROJECT:	HEART'S WAY RANCH 34 SENDERO DE CORAZON
SHEET TITLE:	DRIVEWAY PLAN AND PROFILE

No.	REVISION	BY	APP.	DATE
PROJECT:	16-131	DESIGNED BY:	P.L.D.	
FILE:	131 GRADE	DRAWN BY:	P.L.D.	
DATE:	04/19/16	CHECKED BY:	M.E.W.	
SCALE:	AS NOTED			

Civil Engineering • Water Resources • Traffic Engineering

W • E Walker Engineering

905 Camino Sierra Vista, • Santa Fe, NM 87505

505-820-7990
FAX 505-820-3530
E-MAIL civil@walkerengineering.net

W·E Walker Engineering
905 Camino Sierra Vista • Santa Fe, NM 87505

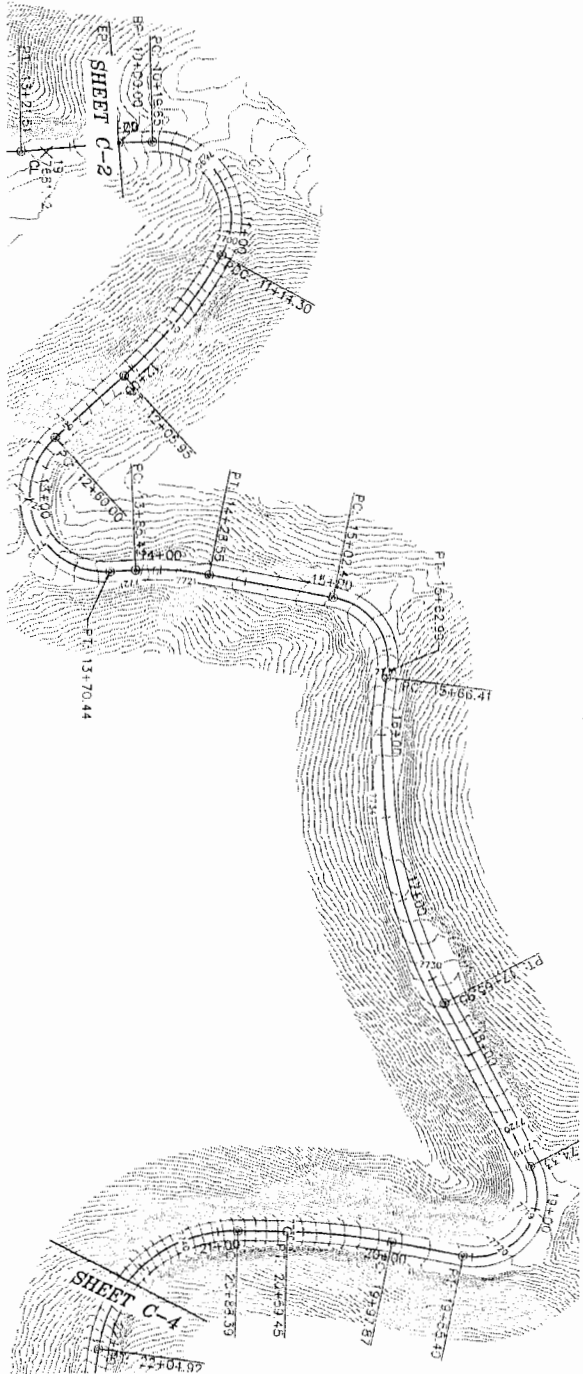
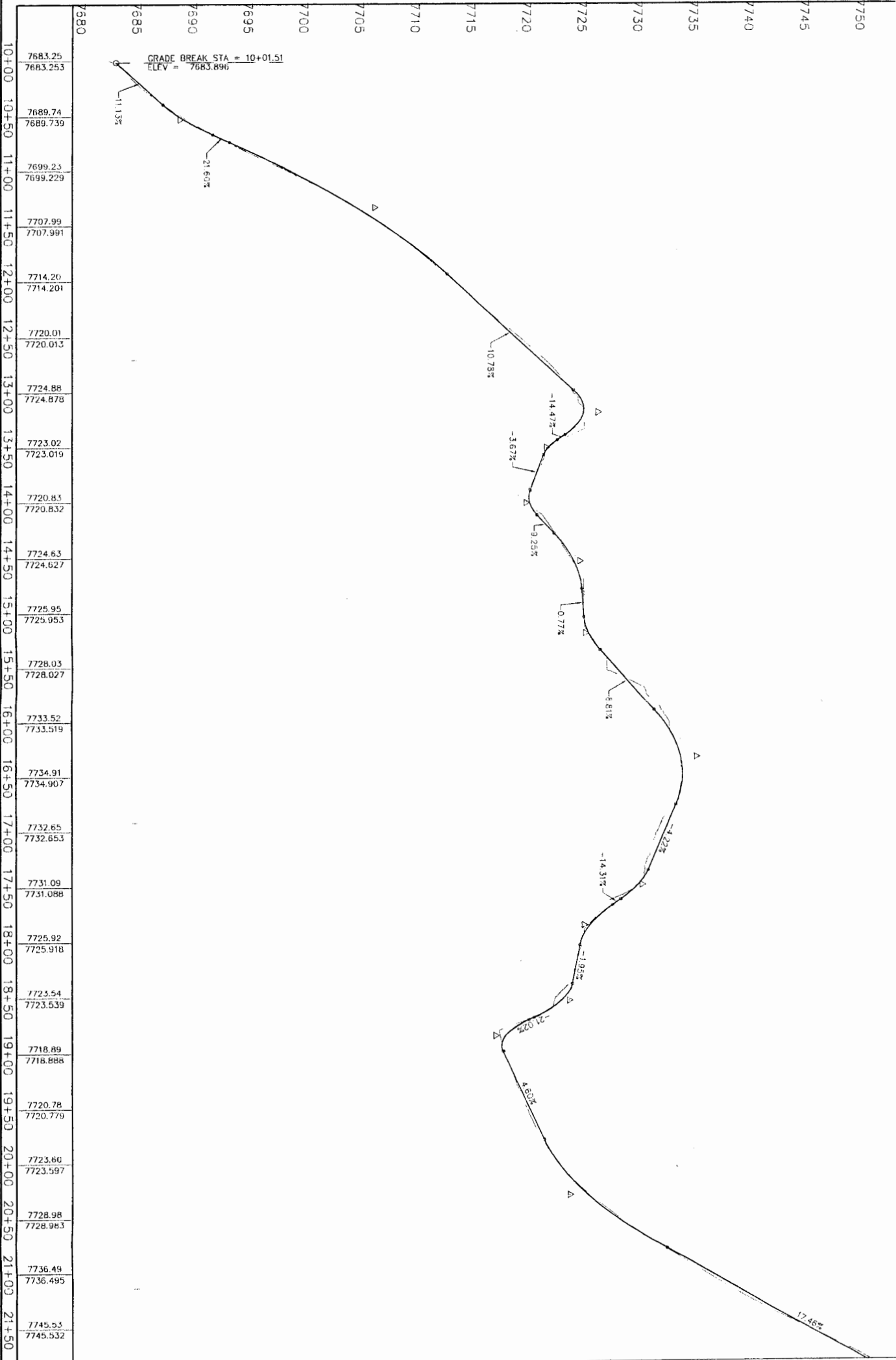
805 Camino Sierra Vista • Santa Fe, NM 87605

505-820-7900
FAX 505-820-3530
E-MAIL civil@walkerengineering.net



SCALE: 1" = 50'
50' 0 50'
CATCHER INTERVAL = ONE FOOT (1')
HORIZONTAL SCALE 1" = 50'
VERTICAL SCALE 1" = 5'

SEE SHEET C-2 FOR CONTINUATION



SEE SHEET C-4 FOR CONTINUATION

NR4-22

C-3

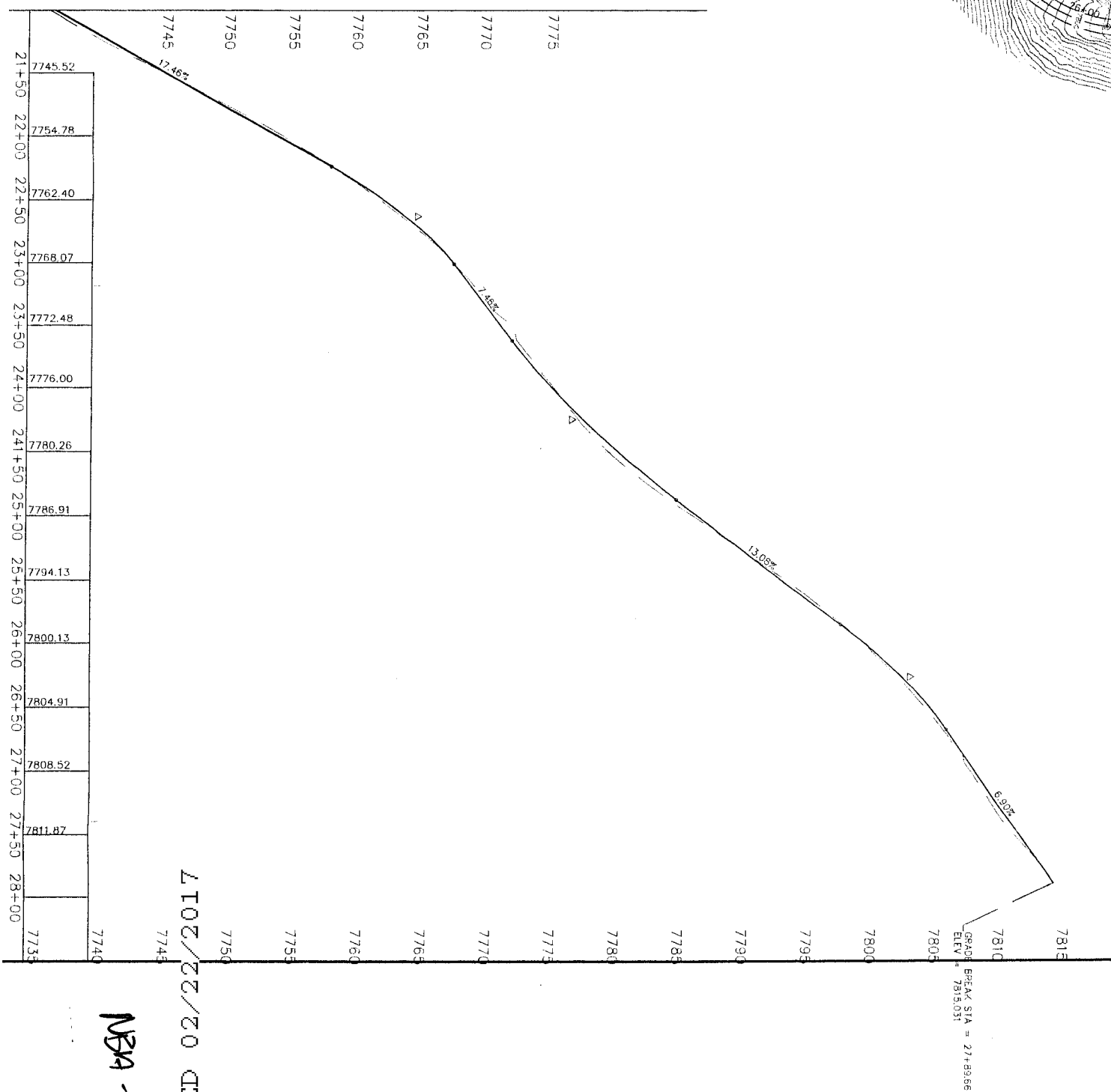
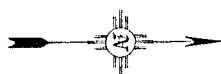
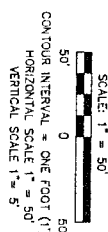
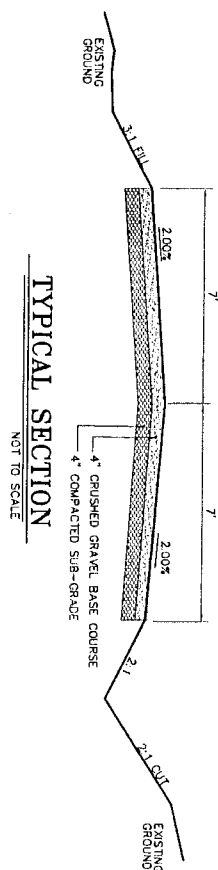
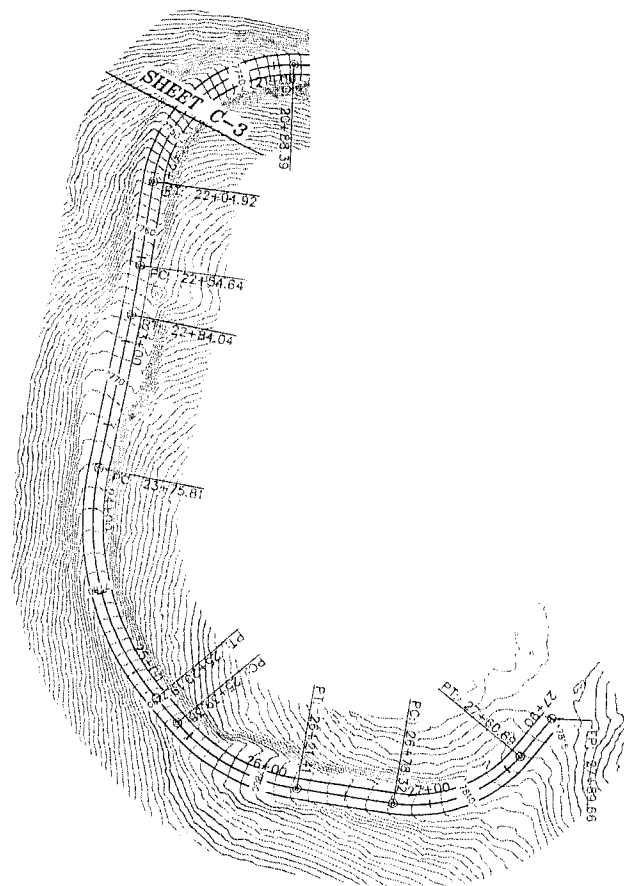
COUNTY REVIEW

DEPARTMENT	SIGN-OFF	DATE
LAND USE PLANNER		
PUBLIC WORKS DIRECTOR		
S.F. WATER COMPANY		
COUNTY USE ONLY		

PROJECT: **HEART'S WAY RANCH**
34 SENDERO DE CORAZON
SHEET TITLE: **DRIVEWAY**
PLAN AND PROFILE

No.	REVISION	DY	APP.	DATE
PROJECT:	16-131	DESIGNED BY:	P.L.D.	
FILE:	131 GRADE	DRAWN BY:	P.L.D.	
DATE:	04/19/16	CHECKED BY:	M.E.W.	
SCALE:		AS NOTED		

Civil Engineering • Water Resources • Traffic Engineering
W. E. Walker Engineering
905 Camino Sierra Vista, • Santa Fe, NM 87505
505-820-7090
FAX 505-820-3539
E-MAIL civil@walkerengineering.net



No.	REVISION	BY	APP.	DATE
PROJECT:	16-131	DESIGNED BY:	P.L.B.	
FILE:	131 GRADE	DRAWN BY:	P.L.B.	
DATE:	04/19/16	CHECKED BY:	M.E.W.	
SCALE:	AS NOTED			

Civil Engineering • Water Resources • Traffic Engineering

W • E Walker Engineering

905 Camino Sierra Vista, • Santa Fe, NM 87505

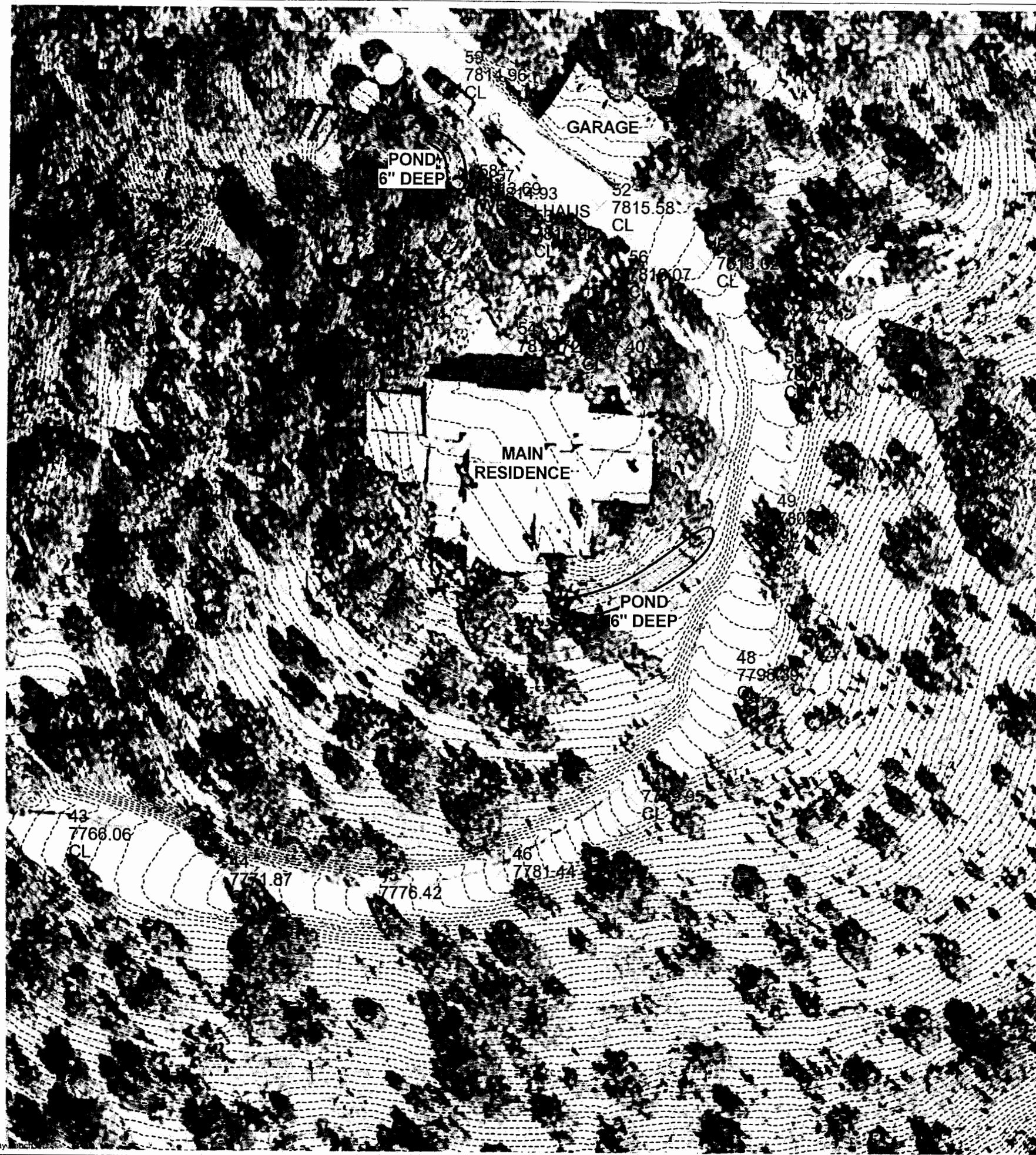
505-820-7090
FAX 505-820-3530
E-MAIL civil@walkerengineering.net

PROJECT: *HEART'S WAY RANCH*
34 SENDERO DE CORAZON

SHEET TITLE: *DRIVEWAY*
PLAN AND PROFILE

COUNTY	REVIEW	
DEPARTMENT	SIGN-OFF	DATE
LAND USE PLANNER		
PUBLIC WORKS DIRECTOR		
S.F. WATER COMPANY		
COLORADO COUNTY	USE ONLY	

C-4



MAIN RESIDENCE
RUNOFF AND PONDING CALCULATIONS
WEIGHTED "C" METHOD

WEIGHTED "C" FORMULA:
 $Q = C \cdot I \cdot A$ (CFS), WHERE:
C = RUNOFF COEFFICIENT
I = 3.0 IN./24 HRS. (100 YR. STORM INTENSITY)
A = AREA (ACRES)
 $VOL = C \cdot (I/12) \cdot A$ (SF)

RUNOFF COEFFICIENTS:		0.95					
		C	I	A (SF)	A (AC)	Q (CFS)	V (CF)
PRE-DEVELOPMENT:							
NATIVE SOIL		0.55	3	2936	0.07	0.11	0.25
TOTAL						0.11	0.25
POST-DEVELOPMENT:							
ROOF		0.95	3	2996	0.07	0.20	0.25
TOTAL				2996		0.20	0.25
INCREASE IN RUNOFF VOLUME (PONDING REQUIRED) CUBIC FEET							
							300
STORMWATER DETENTION PROVIDED (CUBIC FEET)							320

GARAGE
RUNOFF AND PONDING CALCULATIONS
WEIGHTED "C" METHOD

WEIGHTED "C" FORMULA:
 $Q = C \cdot I \cdot A$ (CFS), WHERE:
C = RUNOFF COEFFICIENT
I = 3.0 IN./24 HRS. (100 YR. STORM INTENSITY)
A = AREA (ACRES)
 $VOL = C \cdot (I/12) \cdot A$ (SF)

RUNOFF COEFFICIENTS:		0.95					
		C	I	A (SF)	A (AC)	Q (CFS)	V (CF)
PRE-DEVELOPMENT:							
NATIVE SOIL		0.55	3	586	0.01	0.02	0.25
TOTAL						0.02	0.25
POST-DEVELOPMENT:							
ROOF		0.95	3	586	0.01	0.04	0.25
TOTAL				586		0.04	0.25
INCREASE IN RUNOFF VOLUME (PONDING REQUIRED) CUBIC FEET							59
STORMWATER DETENTION PROVIDED (CUBIC FEET)							75

Heart's Way Ranch
34 Sendero de Corazon

Revision Schedule

Num	Desc	Date

Date

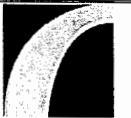
Issue Date

Drawn by

Author

Checked by

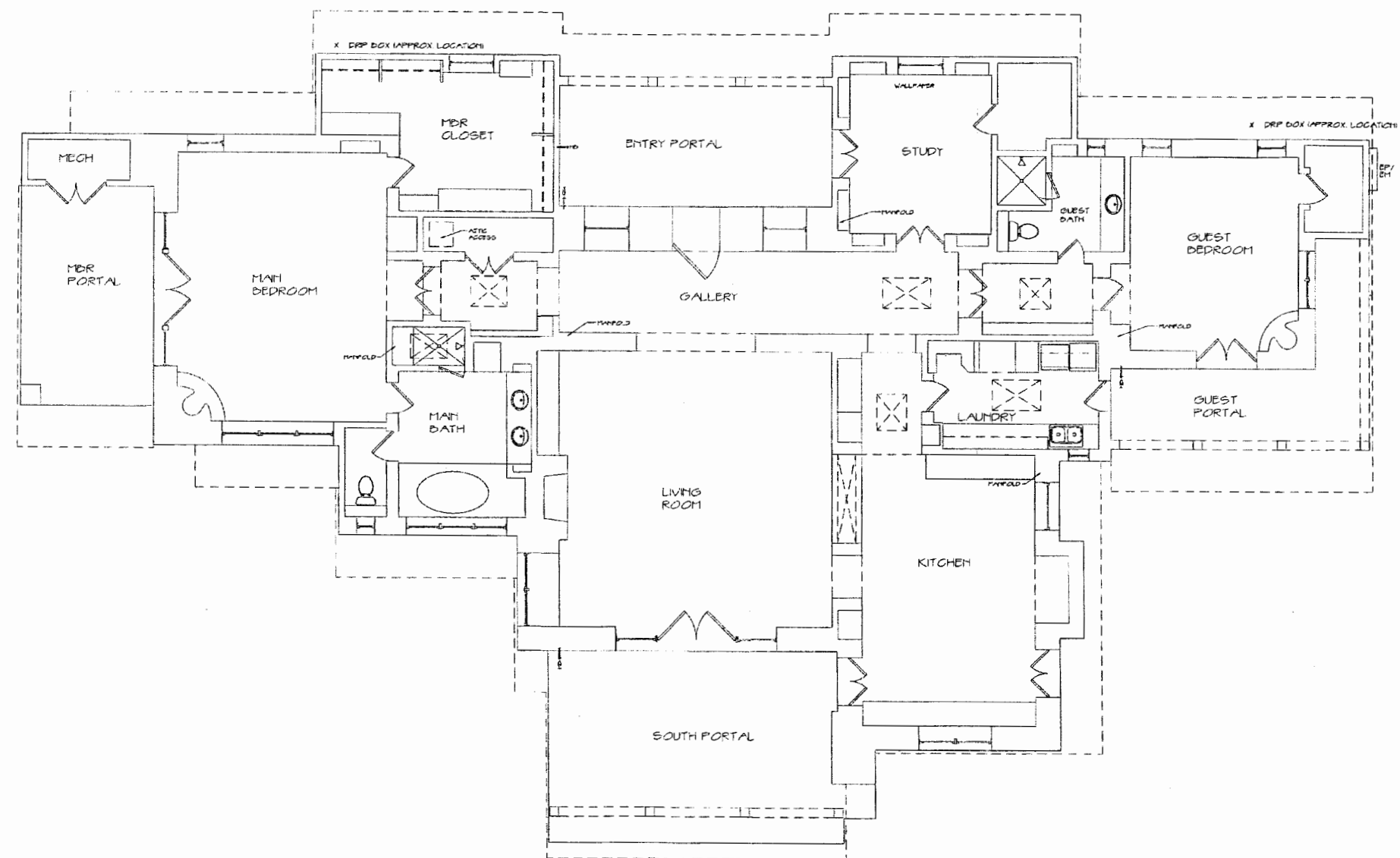
Checker


jenkinsgavin
DESIGN & DEVELOPMENT INC.
130 Grant Avenue, Suite 101
Santa Fe, New Mexico 87501

Site
Ponding -
Main
Residence
/ Garage

Scale 1" = 20'-0"

NBA-24



Heart's Way Ranch

34 Sendero de Corazon

Revision Schedule		
Num	Desc	Date

Date
Issue Date

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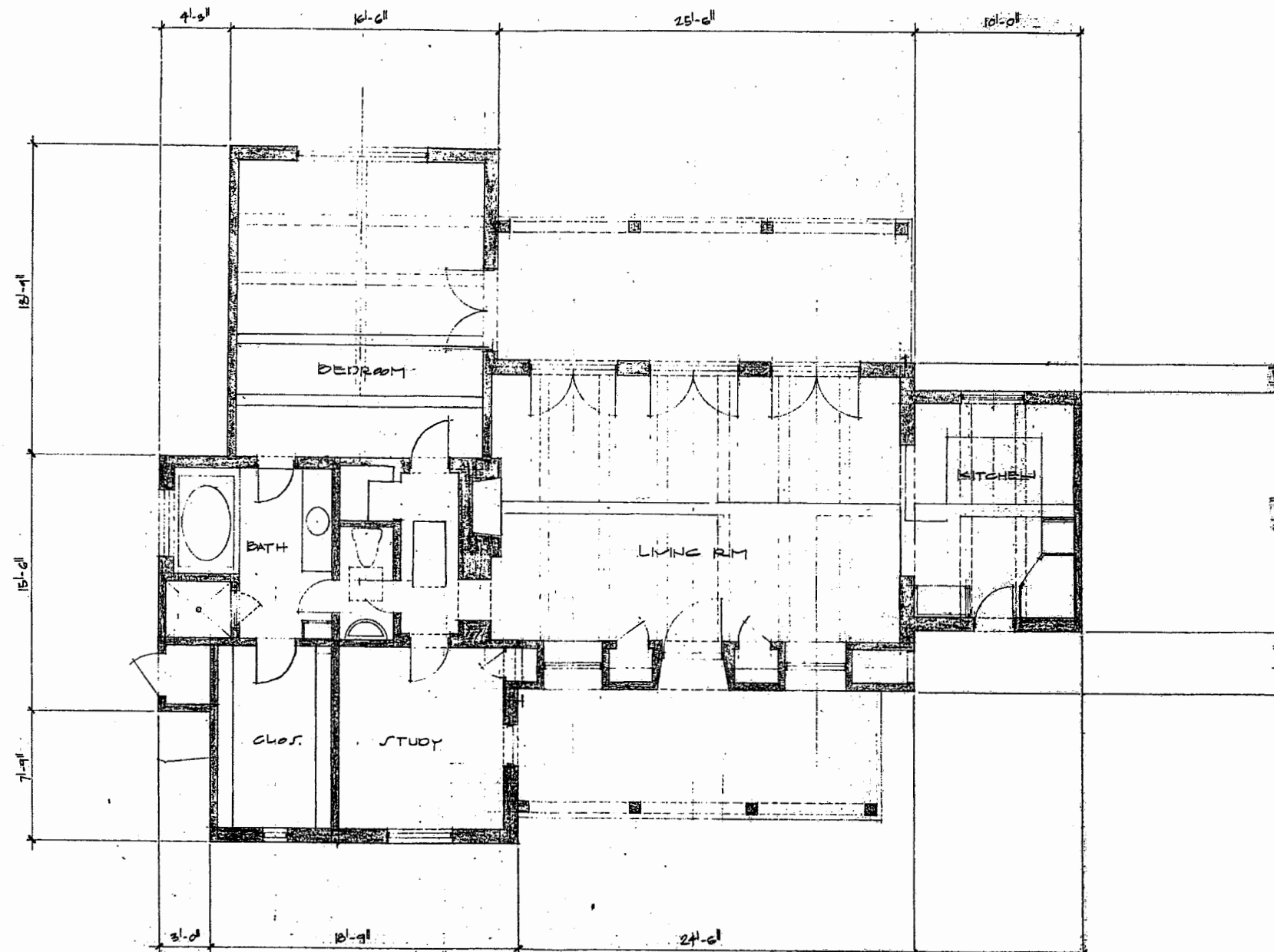
Main
Residence
Floor Plan

Scale 1/4" = 1'-0"

7A

SFC CLERK RECORDED 02/22/2017
Main Residence Floor Plan
1/4" = 1'-0"

NBA-25



NBA-26

Heart's Way Ranch

34 Sendero de Corazon

Revision Schedule

Num	Desc	Date

Date
Issue Date

Drawn by
Author

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Checker



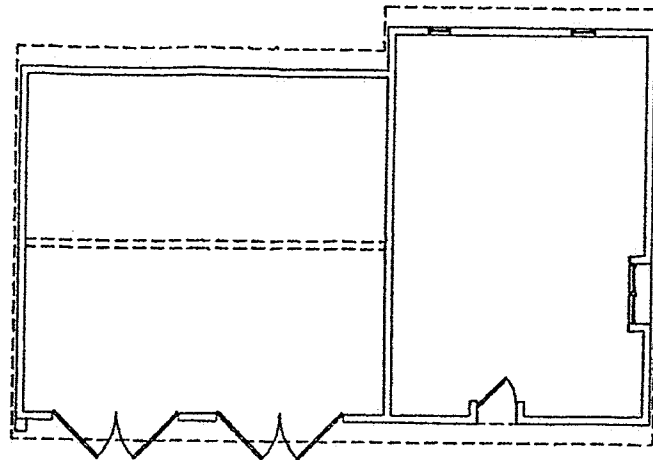
jenkinsgavin
DESIGN & DEVELOPMENT INC.

130 Grant Avenue, Suite 101
Santa Fe, New Mexico 87501

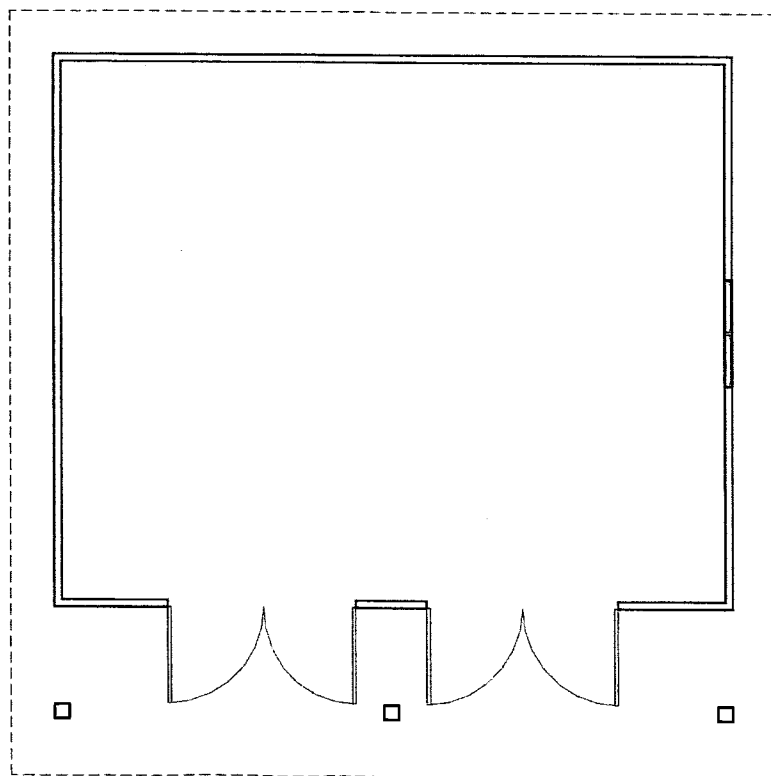
Casita Floor Plan (Typ.)

Scale 1/4" = 1'-0"

7B



① Garage Plan
1/4" = 1'-0"



② Workshop Plan
1/4" = 1'-0"

Heart's Way Ranch

34 Sendero de Corazon

Revision Schedule
Num Desc Date

Date
Issue Date

Drawn by
Author

Checked by
Checker


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130 Grant Avenue, Suite 101
Santa Fe, New Mexico 87501

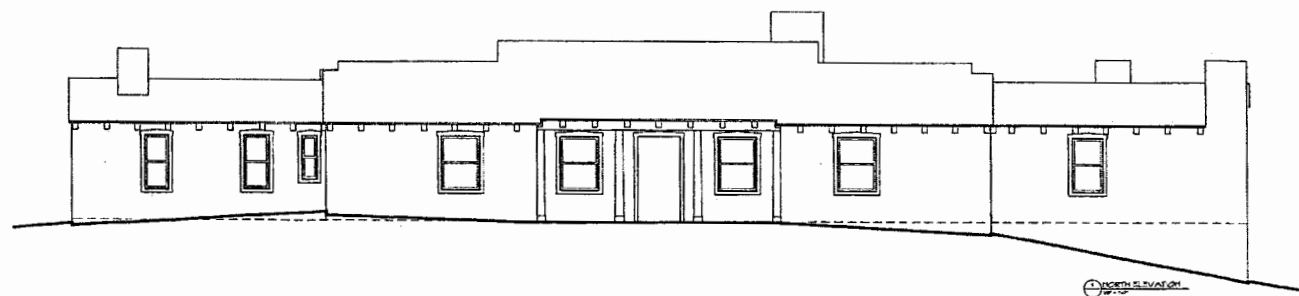
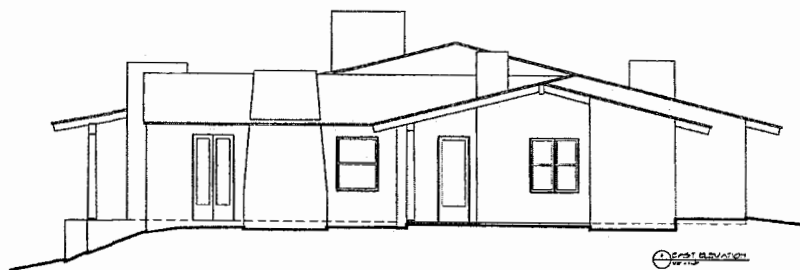
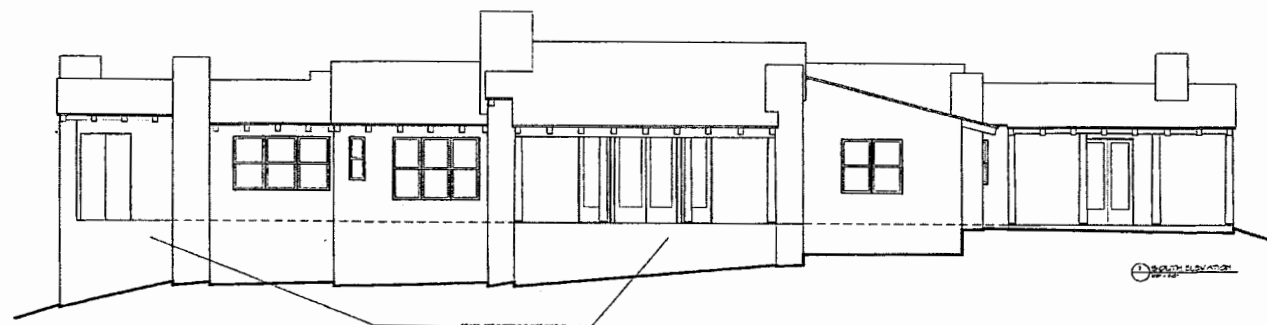
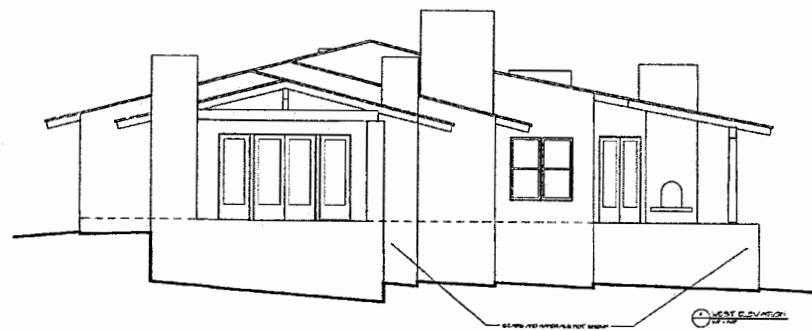
Garage,
Workshop
Floor Plans

Scale 1/4" = 1'-0"

7C

SFC CLERK RECORDED 02/22/2017

NBA-27



Heart's Way Ranch

34 Sendero de Corazon

Revision Schedule		
Num	Desc	Date

Date
Issue Date

Drawn by
Author

Checked by
Checker



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DESIGN & DEVELOPMENT INC.

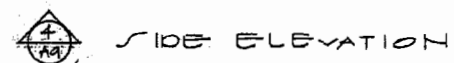
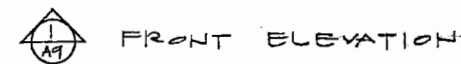
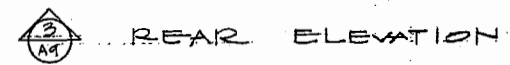
130 Grant Avenue, Suite 101
Santa Fe, New Mexico 87501

Main
Residence
Elevations

Scale 1/8" = 1'-0"

NBA-28

8A



NBA - 29:



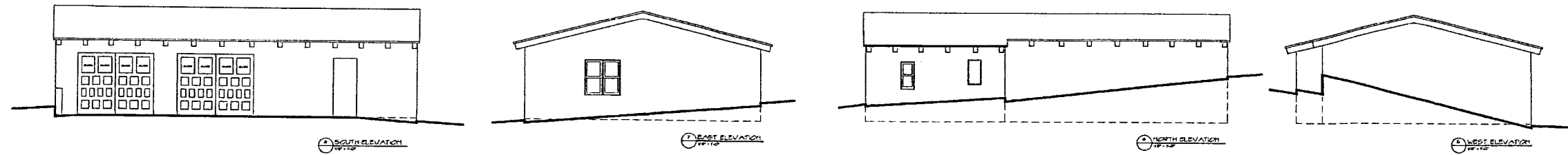
jenkinsgavin
DESIGN & DEVELOPMENT INC

130 Grant Avenue, Suite 101
Santa Fe, New Mexico 87501

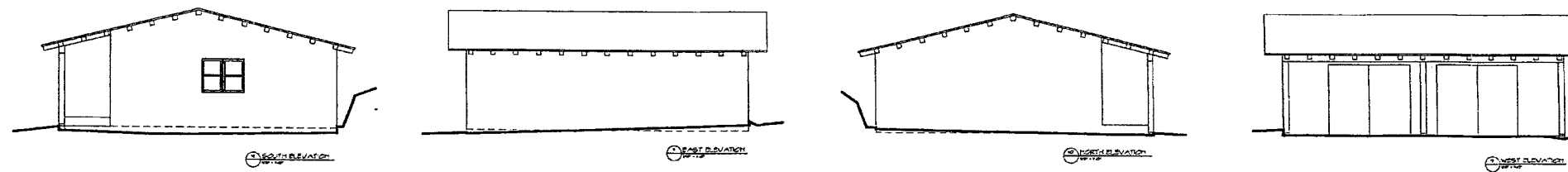
Castia
Elevations
(Typ.)

Scale $1/4" = 1'-0"$

8B



① Garage Elevations
1/8" = 1'-0"



② Workshop Elevations
1/8" = 1'-0"

Heart's Way Ranch

34 Sendero de Corazon

Revision Schedule		
Num	Desc	Date

Date
Issue Date

Drawn by
Author

Checked by
Checker



jenkinsgavin
DESIGN & DEVELOPMENT INC
130 Grant Avenue, Suite 101
Santa Fe, New Mexico 87501

Garage /
Workshop
Elevations

Scale 1/8" = 1'-0"

NBA 30

Henry P. Roybal
Commissioner, District 1

Miguel Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

Santa Fe County Fire Department Fire Prevention Division

Official Development Review

Date	July 13, 2016		
Project Name	Hearts Way Ranch Retreat		
Project Location	34 Sendero de Corazon T16; R10; S9 "Extreme Wildland-Urban Hazard Area"		
Description	Wellness Retreat	Case Manager	John Lovato
Applicant Name	Susan Carter	County Case #	16-3048
Applicant Address	34 Sendero de Corazon Santa Fe, NM 87505	Fire District	Hondo
Applicant Phone	505-930-6149/Jenkins Gavin agent		
Review Type:	Commercial <input checked="" type="checkbox"/> Family Trans <input type="checkbox"/>	Residential <input type="checkbox"/> Inspection <input checked="" type="checkbox"/>	Lot Split <input type="checkbox"/> Wildland <input checked="" type="checkbox"/> Lot Line Adjustment <input type="checkbox"/> Variance <input type="checkbox"/> Zone No. _____
Project Status:	Approved <input type="checkbox"/>	Approved with Conditions <input checked="" type="checkbox"/>	Denial <input type="checkbox"/>

The Fire Prevention Division/Code Enforcement Bureau of the Santa Fe County Fire Department has reviewed the above submittal and requires compliance with applicable Santa Fe County fire and life safety codes, ordinances and resolutions as indicated (Note underlined items):

Fire Department Access

Shall comply with Article 9 - Fire Department Access and Water Supply of the 1997 Uniform Fire Code inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal

▪ Fire Access Lanes

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

Curbs or signage adjacent to the building, fire hydrant, entrances and landscape medians in traffic flow areas shall be appropriately marked in red with 6" white lettering reading "FIRE LANE - NO PARKING" as determined by the Fire Marshal prior to occupancy. Assistance in details and information are available through the Fire Prevention Division.



▪ **Roadways/Driveways**

Shall comply with Article 9, Section 902 - Fire Department Access of the 1997 Uniform Fire Code inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal

Roads shall meet the minimum County standards for fire apparatus access roads of a minimum 20' wide. Roads, turnouts and turnarounds shall be County approved all-weather driving surface and an unobstructed vertical clearance of 13' 6" within this type of proposed development.

Driveways to residence and casitas shall be County approved all-weather driving surface of minimum 6" compacted basecourse or equivalent. Minimum gate and driveway width shall be 14' and an unobstructed vertical clearance of 13' 6". Final design and dimensions as approved by the Santa Fe County Fire Marshal

The driveway shall incorporate areas for emergency vehicle purposes that shall conform to the access, turnout and turnaround requirements and dimensions of the Santa Fe County Fire Department.

The radius and the driveways to Casita B and A shall be widened to allow for emergency vehicle access.

Section 901.4.4 Premises Identification (1997 UFC) *Approved numbers or addresses shall be provided for all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property.*

Section 901.4.5 Street or Road Signs. (1997 UFC) *When required by the Chief, streets and roads shall be identified with approved signs.*

Buildings within a commercial complex shall be assigned, post and maintain a proper and legible numbering and/or lettering systems to facilitate rapid identification for emergency responding personnel as approved by the Santa Fe County Fire Marshal.

▪ **Slope/Road Grade**

Section 902.2.2.6 Grade (1997 UFC) *The gradient for a fire apparatus access road shall not exceed the maximum approved.*

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

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

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

All gates shall be operable by means of a key or key switch, which is keyed to the Santa Fe County Emergency Access System (Knox Rapid Entry System).

The entrance gate at the top of Sendero del Corazon shall be set to open further to allow for the increased turn and radius into the Casita B driveway.

Fire Protection Systems

▪ **Water Storage/Delivery Systems**

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

The Developer shall be responsible to maintain, in an approved working order, the water system for the duration of the development and until connection to a regional water system. The responsible party, as indicated above, shall be responsible to call for and submit to the Santa Fe County Fire Department for an annual testing of the fire protection system and the subsequent repairs ordered and costs associated with the testing.

▪ **Hydrants**

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

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

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

Automatic Fire Protection/Suppression

Due to the potential access issues and remote location of this project, for life safety and property protection this office shall require the installation of Automatic Fire Protection Sprinkler systems meeting NFPA 13R requirements in the Casitas A & B. Assistance in details and information are available through the Fire Prevention Division.

For life safety and property protection, this office also *highly recommends* the installation of Automatic Fire Protection Sprinkler systems in the Main Residence. Assistance in details and information are available through the Fire Prevention Division.

All Automatic Fire Protection systems shall be developed by a firm certified to perform and design such systems. Copies of sprinkler system design shall be submitted to the Fire Prevention Division for review and acceptance. Systems will not be approved unless rough-in and final inspection is witnessed by the Santa Fe County Fire Department prior to allowing any occupancy to take place. Fire sprinklers systems shall meet all requirements of NFPA 13-R Standard for the Installation of Sprinkler Systems. It shall be the responsibility of the installer and/or developer to notify the Fire Prevention Division when the system is ready for testing.

The required system riser shall meet the requirements of the NFPA 13 1996.

Locations of all Fire Department Connections (FDC's) shall be determined and approved prior to the start of construction on the system. All FDC's shall have County threaded ports.

Fire Alarm/Notification Systems

Automatic Fire Protection Alarm systems shall be required as per 1997 Uniform Fire Code, Article 10 Section 1007.2.1.1 and the Building Code as adopted by the State of New Mexico and/or the County of Santa Fe. Required Fire Alarm systems shall be in accordance with NFPA 72, National Fire Alarm Code, for given type of structure and occupancy use.

The sprinkler system shall be electrically monitored by an approved central station, remote station or proprietary monitoring station. All Fire Alarm systems shall be developed by a firm certified to perform and design such systems. Copies of the fire alarm system design shall be submitted to the Fire Prevention Division for review and acceptance prior to installation. Systems will not be approved unless tested by the Santa Fe County Fire Department

▪ Fire Extinguishers

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

Portable fire extinguishers shall be installed in occupancies and locations as set forth in the 1997 Uniform Fire Code. Assistance in details and information are available through the Fire Prevention Division. Portable fire extinguishers shall be in accordance with UFC Standard 10-1.

▪ Life Safety

Fire Protection requirements listed for this development have taken into consideration the hazard factors of potential occupancies as presented in the developer's proposed use list. Each and every individual structure of a commercial occupancy designation will be reviewed and must meet compliance with the Santa Fe County Fire Code (1997 Uniform Fire Code and applicable NFPA standards) and the 1997 NFPA 101, Life Safety Code, which have been adopted by the State of New Mexico and/or the County of Santa Fe.

Urban-Wildland Interface

SFC Ordinance 2001-11, Urban Wildland Interface Code

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

▪ Building Materials

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

▪ **Location/Addressing/Access**

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

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

▪ **Vegetation Management**

The project shall also have a vegetation management plan as required by the Urban Interface Fire Code 2001-11. This plan shall be submitted in advanced for review and approval.

General Requirements/Comments

▪ **Inspections/Acceptance Tests**

The developer shall call for and submit to a final inspection by this office prior to the approval of the Certificate of Occupancy to ensure compliance to the requirements of the Santa Fe County Fire Code (1997 UFC and applicable NFPA standards) and the 1997 NFPA 101, Life Safety Code.

▪ **Permits**

As required

Final Status

Recommendation for Development Plan approval with the above conditions applied.

Tim Gilmore, Inspector


Code Enforcement Official

7-14-16
Date

Through: David Sperling, Chief 

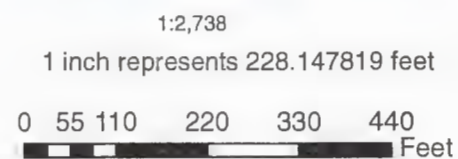
File: DevRev/H/HeartsWay/071316

Cy: Case Manager, Land Use
Battalion Chiefs
Regional Lieutenants
District Chief
Applicant
File



Legend

- Roads
- DRIVEWAYS
- PARCELS



2015 Imagery
SFC CLERK RECORDED 02/22/2017
2 FOOT CONTOURS

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



NBA-36

July 21, 2016

7.11.4.3. There shall be a minimum of three percent (3%) crown in the driving surface for water runoff.

7.11.5. Drainage; Curb and Gutter.

7.11.5.1. Culverts. Culverts, if used, shall be sized to accommodate a one hundred (100) year storm. Culverts shall also be of sufficient size, gauge, and length, and placed appropriately deep to withstand projected traffic loading and storm runoff.

7.11.5.2. Curb and Gutter. Curb and gutter shall be required where deemed necessary for drainage control or protection of pedestrians.

7.11.6. Intersections and roundabouts.

7.11.6.1. Roads shall be laid out to intersect each other as nearly as possible at ninety (90) degree right angles; under no condition shall intersection angles be less than seventy (70) degrees.

7.11.6.2. Offset intersections less than two hundred (200) feet apart shall not be permitted.

7.11.6.3. Property lines at road intersections shall be rounded with a minimum radius of twenty-eight (28) feet or a greater radius when necessary to permit the construction of a curb and sidewalk or when otherwise needed.

7.11.6.4. A tangent of sufficient distance shall be introduced between reverse curves on all roads according to AASHTO standards.

7.11.6.5. When connecting road centerlines deflect from each other at any point by more than ten degrees, they shall be connected by a curve with a sufficient radius adequate to ensure adequate sight distance according AASHTO standards.

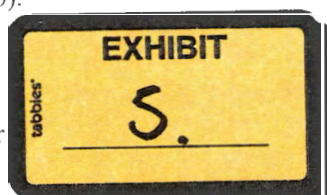
7.11.6.6. Grades at the approach of intersections shall not exceed five percent (5%) for one hundred (100) linear feet prior to the radius return of the intersection, excluding vertical curve distance.

7.11.6.7. Curvature in intersection design alignments shall not be less than stopping distances required for the design speed of the road as per AASHTO Standards. The geometry of intersections shall be consistent with the design speed of the road and AASHTO Standards.

7.11.6.8. Road jogs with centerline offsets of less than two hundred (200) feet shall be prohibited.

7.11.6.9. A capacity analysis of any proposed roundabout shall be conducted in accordance with Highway Capacity Manual methods. The analysis shall include consideration for the largest motorized vehicle likely to use the intersection.

7.11.6.10. Roundabouts shall be designed in conformance with the guidelines set forth in the Federal Highway Administration (FHWA) publication "Roundabouts: An Informational Guide." (Second Edition Report 672, National Cooperative Highway Research Program, 2010).



14.9.7. Variances.

14.9.7.1. Purpose. The purpose of this section is to provide a mechanism in the form of a variance that grants a landowner relief from certain standards in this code where, due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner. The granting of an area variance shall allow a deviation from the dimensional requirements of the Code, but in no way shall it authorize a use of land that is otherwise prohibited in the relevant zoning district.

14.9.7.2. Process. All applications for variances will be processed in accordance with this chapter of the Code.

14.9.7.3. Applicability. When consistent with the review criteria listed below, the planning commission may grant a zoning variance from any provision of the SLDC except that the planning commission shall not grant a variance that authorizes a use of land that is otherwise prohibited in the relevant zoning district.

14.9.7.4. Review criteria. A variance may be granted only by a majority of all the members of the Planning Commission (or the Board, on appeal from the Planning Commission) where authorized by NMSA 1978, Section 3-21-8(C):

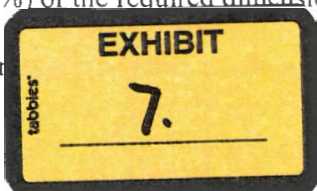
1. where the request is not contrary to the public interest;
2. where, owing to special conditions, a literal enforcement of the SLDC will result in unnecessary hardship to the applicant; and
3. so that the spirit of the SLDC is observed and substantial justice is done.

14.9.7.5. Conditions of approval.

1. The Planning Commission may impose conditions on a variance request necessary to accomplish the purposes and intent of the SLDC and the SGMP and to prevent or minimize adverse impacts on the general health, safety and welfare of property owners and area residents.
2. All approved variances run with the land, unless conditions of approval imposed by the Planning Commission specify otherwise.
3. All approved variances automatically expire within one year of the date of approval, unless the applicant takes affirmative action consistent with the approval.

14.9.7.6. Administrative minor deviations. The Administrator is authorized to administratively approve minor deviations upon a finding that the result is consistent with the intent and purpose of this SLDC and not detrimental to adjacent or surrounding properties as follows:

1. minor deviations from the dimensional requirements of Chapter 7 of the SLDC not to exceed ten percent (10%) of the required dimension.
2. minor deviations from the dimensional requirements of Chapter 8 of the SLDC not to exceed five tenths of a



NBA-34

SANTA FE NEW MEXICAN

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JENKINS GAVIN DESIGN.
130 GRANT AVE STE 101
SANTA FE, NM 87501

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LEGAL NO 81395 P.O. #:
1 TIME(S) 98.70
AFFIDAVIT 10.00
TAX 9.04
TOTAL 117.74

AFFIDAVIT OF PUBLICATION

STATE OF NEW MEXICO
COUNTY OF SANTA FE

I, W. Barnard, being first duly sworn declare and say that I am Legal Advertising Representative of THE SANTA FE NEW MEXICAN, a daily newspaper published in the English language, and having a general circulation in the Counties of Santa Fe, Rio Arriba, San Miguel, and Los Alamos, State of New Mexico and being a newspaper duly qualified to publish legal notices and advertisements under the provisions of Chapter 167 on Session Laws of 1937; that the Legal No 81395 a copy of which is hereto attached was published in said newspaper 1 day(s) between 08/10/2016 and 08/10/2016 and that the notice was published in the newspaper proper and not in any supplement; the first date of publication being on the 10th day of August, 2016 and that the undersigned has personal knowledge of the matter and things set forth in this affidavit.

/S/

LEGAL ADVERTISEMENT REPRESENTATIVE

Subscribed and sworn to before me on this 10th day of August, 2016

Notary

Commission Expires: MAY 25, 2019



NBA-41

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Resident
50 C LA BARBARIA TRL
SANTA FE, NEW MEXICO
87505

ROWLEY, KENNETH & SANDRA
38 CAMINO TORTUGA
SANTA FE, NEW MEXICO
87505

MOUNTAIN HEART, LLC
50 B LA BARBARIA TRL
SANTA FE, NEW MEXICO
87505

Resident
0 CAMIN TORTUGA
SANTA FE, NEW MEXICO
87505

SHELTON, KATHERINE K & J
50 A LA BARBARIA TRL
SANTA FE, NEW MEXICO
87505

ROWLEY, KENNETH & SANDRA
8497 S CUSTER LN
EVERGREEN, CO
80439

Resident
0 LA BARBARIA TRL
SANTA FE, NEW MEXICO
87505

LOPEZ, DENEZ
26 CAMINO TORTUGA
SANTA FE, NEW MEXICO
87505

CHOPPIN, GREGORY R & ANNE W
208 HOLLAND RD
SIMOSINVILLE, SC
29681-5802

Resident
7 OWL CREEK RD
SANTA FE, NEW MEXICO
87505

SOUBERMAN, ELLEN J
63 A LA BARBARIA TRL
SANTA FE, NEW MEXICO
87505

DEUSCHLE, JAMES & CATHERINE
(TRUSTEES)
225 E 24TH ST
TULSA, OK
74114

BANK, RICHARD M & LAURA K
6 OWL CREEK RD
SANTA FE, NEW MEXICO
87505

NBA-43

July 13, 2016

Santa Fe County Zoning Hearing Officer

Santa Fe Planning Commission

RE; Hearts Way Ranch

Dear Hearing Officer & Members of the Planning Commission,

I am writing as Chairman of the La Barbaria Trail Association. We are opposing the plan to develop an alcohol and drug treatment center on Sendero do Corazon, a long, steep, one lane dirt driveway off of La Barbaria Trail and Tortuga.

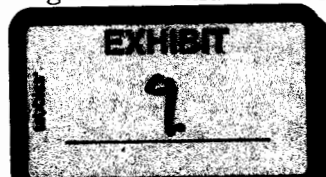
La Barbaria Trail is a private dirt road less than a mile long; it is not wide enough for two cars to pass in a few places without one pulling off to the side. Maintaining the road is expensive and the land on either side of the road is heavily forested. There are only eleven houses on the road that are lived in full time and four that are part-time residences. In the past we have all known each other's cars and there has been very little traffic. Since the Owners of "Hearts Way Ranch" moved in and began developing the property traffic has increased at least threefold. There are the two women who own the property and their guests; they have also hired two on-site property managers, a cleaning crew to care for the main house and two guest houses, there are workmen and other miscellaneous vehicles up and down the road on and off all day. The road is steep in places and fragile as are all dirt roads. This wear and tear will be far more expensive to maintain and there is the additional problem that these strangers drive way too fast and I have had several calls from neighbors to say that they have been almost run off the road by unknown vehicles. If this project goes through I know they plan to buy some sort of van or SUV to transport their clients/guests to various cultural sites and events in Santa Fe and surrounding areas. If these people are alcoholics, as Susan Carter says most will be, then I assume they will be taken to AA meetings also. Our road simply cannot handle this kind of traffic.

We maintain our road as we can afford it and also do some fire mitigation to try to thin trees along the road. The new owners of this property of are not paying their road dues, in spite of their heavy use of the road.

The next large problem with this development is the danger of a catastrophic fire. The last five fire chiefs at the Hondo Fire Dept. have told us at various neighborhood meetings that because of the very steep and heavily forested terrain up here a fire, should one occur, will be "catastrophic", which they define as "causing heavy loss of life and property". It could be impossible to get fire trucks up here because cars and fire trucks cannot pass each other on the narrow road and traffic jams would result which would trap all of us.

As far as the "Hearts Way Ranch" property is concerned a fire truck would not even be able to get up their very steep one lane driveway if it could get up La Barbaria Trail, which is as I said problematic.

I have been told by the Planning Commission that the clients/guests at the ranch are not to be allowed up at the main house where the owners live because the driveway is dangerously steep and it does ice up in winter at times. The two guest houses are very small and Susan Carter told me that the main house living room would be used for community meetings and the big



NBA-45

kitchen in that house for community meals. There is no other space for the group to gather unless they start building, which we hope will not happen.

Our neighborhood here is unique, even for Santa Fe. Our properties are fairly large, five to 160 acres, with most having about 20 acres. We border the Santa Fe National Forest and are a bit of a wildlife refuge. We cherish the wildlife and regularly see bears, coyotes, bobcats, rabbits, squirrels and the occasional passing cougar. A fish and game officer told me a few years ago that there were probably about 10 bears wandering our canyon at any given time. Those of us who have lived here for years are used to the wildlife and feel privileged to share our environment with them. But, placing a commercial facility in the midst of this seems inappropriate. I know the owners plan to advertise their "ranch" and city and suburban people who respond are not going to have any idea of how to cope with wandering wildlife. Susan Carter told me that one of the reasons they chose the property they did was so that the clients/guests could hike. The number of people they will have up there will not be allowed to hike on our private properties and the 40 acres they own is all very, very steep, as is much of the adjacent National Forest.

This commercial venture simply seems terribly inappropriate for La Barbaria Trail and would, I think put its guests/clients in situations that could be dangerous, or in case of fire, life threatening. It would cause increased danger for the rest of us because of the increased traffic, which will only get worse if they are allowed to open this facility.

Please do not let this commercial enterprise destroy our peaceful and wild refuge along beautiful La Barbaria Trail. I know there are far more appropriate places for this development.

Thank you for your consideration.

Sincerely,


Catherine Joyce-Coll

La Barbaria Trail Association Chairman

NBA-46

Graeser & McQueen, LLC
— ATTORNEYS AT LAW —

July 18, 2016

Santa Fe County Zoning Hearing Officer
Santa Fe County Planning Commission

Re: Hearts Way Ranch Variance Request

Dear Hearing Officer and Members of the Planning Commission,

We represent the La Barbaria Trail Association, which is very concerned with this pending application. This letter is in reference to agent JenkinsGavin, Inc.'s May 27, 2106 variance application letter to Jose Larranaga (the "Letter").

The request is for variances from SLDC Table 7-13 (maximum 10% grade on driveways) and Section 7.11.6.6 (maximum 5% grade at approach of intersections). Sheets 6B-6D of the application show that approximately 1/3 of the entire 1/2 mile-long driveway has grades that exceed the standard, with approximately 1/3 of that portion being double the allowable grade. The Applicant does not show the intersection grade.

The purpose of these road standards includes to "provide for the safety for both vehicular and pedestrian traffic." SLDC 7.11.1.2. Therefore, a dimensional variance from these safety criteria must be given the utmost scrutiny.

SLDC 14.9.7 allows variances "where, due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner." The criteria of Section 14.9.7.4 are as follows:

A variance may be granted only by a majority of all of the members of the Planning Commission (or the Board, on appeal from the Planning Commission) where authorized by NMSA 1978, Section 3-21-8(C):

1. where the request is not contrary to the public interest;
2. where, owing to special conditions, a literal enforcement of the SLDC will result in unnecessary hardship to the applicant; and
3. so that the spirit of the SLDC is observed and substantial justice is done.

Section 3-21-8.C(1), in turn, contains these same criteria, but with the additional requirement that the goals and policies of the comprehensive plan are implemented:

Christopher Graeser ■ Matthew McQueen ■ John B. Hiatt

316 E. Marcy Street ■ PO Box 220 Santa Fe, NM 87504 ■ 505-982-9074 ■ chris@tierrallaw.com

NBA-47

[the zoning authority may] authorize, in appropriate cases and subject to appropriate conditions and safeguards, variances or special exceptions from the terms of the zoning ordinance or resolution:

- (a) that are not contrary to the public interest;
- (b) where, owing to special conditions, a literal enforcement of the zoning ordinance will result in unnecessary hardship;
- (c) so that the spirit of the zoning ordinance is observed and substantial justice done; and
- (d) so that the goals and policies of the comprehensive plan are implemented...

Here, the variance request fails on each of the code and statutory criteria:

I. THE VARIANCE IS CONTRARY TO THE PUBLIC INTEREST

The Applicant's justification that "The variance is requested for an existing private driveway and thus is not contrary to the public interest," Letter at 2, is disingenuous. If the standard were not meant to apply to private driveways, the Commission would not have applied it to driveways. However, it does apply. Moreover, while the driveway is existing, the Applicant proposes a new use of that driveway. That new use is by customers, subjecting people other than the owners to the dangerous condition when the Applicant acknowledges that "the subject property comprises very steep terrain." Letter at 3.

The public interest is particularly compelling given the fire danger exacerbated by inadequate emergency vehicle access. This is not an area variance of aesthetic standards like, for instance, a taller building or reduced lot frontage. The diminution of safety is not in the public interest.

The Applicant's letter focuses on the driveway and in no way addresses the public interest associated with allowing the intensified use of the steep intersection of Sendero de Corazon and Camino Tortuga. The Applicant has failed in its burden to demonstrate entitlement to a variance. The Applicant's failure to provide information that would be essential to determining if the variance is in the public interest is a compelling reason for denial. Neither the Hearing Officer nor the Planning Commission can determine the degree of variance sought. Is it *de minimus*, or is it substantial like the more than doubling of grade for the driveway?

More concerning is the Applicant's choice not to provide a traffic impact analysis. While a TIA is not required for a variance, it is required by the SLDC for the associated development permit (SLDC Table 6-1). The Applicant states that "The Public Works

Department has stated that a Traffic Impact Analysis is not required for this application." May 27, 2016 letter to Jose Larranaga with development plan application. However, the SLDC does not confer on the Public Works Department the authority to waive this requirement. Neither the Hearing Officer nor the Planning Commission can determine the effect of traffic use on the dangerous grades.

II. LITERAL ENFORCEMENT OF THE SLDC WILL NOT RESULT IN UNNECESSARY HARDSHIP TO THE APPLICANT

Neither the SLDC nor statute define unnecessary hardship. The Court of Appeals took on that task, prescribing a two-part test in *Downtown Neighborhoods Association v. City of Albuquerque*, 1989-NMCA-091 ¶21, 109 N.M. 186:

'The ultimate question to be answered is whether the applicant has shown "unnecessary hardship." In answering that question, the body considering the variance must resolve several factual questions.

The first question is whether the parcel is distinguishable from other property that is subject to the same zoning restrictions. The answer depends upon whether, as a result of the differences between this parcel and others, the zoning restrictions create particular hardship for the owner. The test is whether, because of the differences, the owner will be deprived of a reasonable return on his or her property under any use permitted by the existing zoning classification. 6 R. Powell, *supra*, at 872.2[1][b]. If this question is answered affirmatively, then the body considering the variance is entitled to conclude that there are exceptional or special circumstances justifying consideration of a variance. If not, the applicant must seek a change in the zoning restrictions themselves. If the body considering the variance determines that the applicant has shown exceptional or special circumstances, then it still must consider whether the particular variance requested is appropriate. The answer to this question depends upon a comparison of the special circumstances shown and the public interest. The test is whether the hardship identified can be avoided consistently with the public interest. *Id.* If this question is answered affirmatively, then the zoning authority must conclude that the applicant is entitled to a variance. If not, it may deny the variance.

The Court further explained that "unnecessary hardship" has been given special meaning by courts considering a zoning authority's power to grant a variance. It

ordinarily refers to circumstances in which no reasonable use can otherwise be made of the land.” *Downtown Neighborhoods* ¶27.

Again the Applicant offers inadequate facts to support the variance request. The Applicant states only that the subject property “comprises very steep terrain” and that reconstructing the driveway to meet the standards would “excessively damage the terrain and would also be prohibitively expensive.” Letter at 3. There is no discussion whatsoever as to how the subject property “is distinguishable from other property that is subject to the same zoning restrictions.” There is no analysis of the driveway and intersection slopes of each other property in the La Barbaria area in comparison to the subject property. It is self-evident, in fact, that it is not distinguishable. A cursory inspection reveals that the entire area is on steep slopes with nonconforming roads and driveways. There is nothing special about the subject property in that respect.

Even if the subject property were distinguishable, there is no showing that “the differences between this parcel and others.... create a particular hardship for the owner.” That analysis is in the context of whether the Applicant “will be deprived of a reasonable return on his or her property under any use permitted by the existing zoning classification.” We do not know what the owners paid for the property, how that amount relates to appraised residential valuation, what is the fair market rent that can be attributed to the property is any other factors that might help analyze return on investment.¹ The Applicant has not attempted to explain how continued use of the residential property for residential purposes deprives the owners of a reasonable return. Rather, the facts demonstrate the opposite.

The current owners purchased the property in January, 2016. They did so on the basis of a listing for a “single family” property in the “residential” class advertised as the “ultimate family compound.” The listing further noted that “current owner leases out guest houses which covers most expenses.” This is all strong evidence that continued residential use is a reasonable return on the investment.

It is also important to note that the owners purchased the property prior to seeking approvals. If the existing residential uses are an inadequate exchange for their money the prudent and common path would have been to obtain their entitlements prior to purchase. They chose not to do so, and as such assumed the risk that they would be required to adhere to the existing zoning.

¹ The subject was listed for \$2.5 million and is currently assessed at \$1.45 million. New Mexico does not require disclosure of sale prices.

III. THE SPIRIT OF THE ZONING ORDINANCE AND SUBSTANTIAL JUSTICE REQUIRE DENIAL OF THE VARIANCE REQUEST

The spirit of the zoning ordinance is to "protect and promote the health, safety and general welfare of the present and future residents of the County," SLDC 1.4.1, in general and to "provide for the safety of for both vehicular and pedestrian traffic," SLDC 7.11.1.2, in particular. The specific zoning standards relate to road safety, including the ability of emergency vehicles to access necessary areas.

Where, as here, an Applicant proposes to change and intensify an existing use and to drastically exceed allowable road grade standards, the health, safety and welfare foundations of the zoning ordinance need to be given particular respect.

The owners purchased a residential compound. There is no prohibition on continuing to enjoy it as a residential compound. It would violate the spirit of the SLDC to permit intensification of use when the infrastructure does not support it.

IV. THE GOALS AND POLICIES OF THE COMPREHENSIVE PLAN REQUIRE DENIAL OF THE VARIANCE

The SLDC implements the goals and policies of the SGMP, and therefore this portion of the analysis is in large part reflected above. There are some additional policies worth noting however.

SGMP Key Issue 10.1.1.2: "Various deficiencies in roadway design have been identified which directly affect emergency response including substandard grades, widths and turnarounds hampering access; roads which are inaccessible in bad weather, poorly constructed or maintained roads..."

-The intersection and driveway of the subject property are clearly deficient and new uses should not be allowed to increase the problems.

SGMP Goal 32, Policy 32.6: "Provide a safe, efficient, interconnected roadway network."

-Allowing intensified uses that exacerbate substandard, unsafe roads is directly contrary to this goal and policy.

SGMP Goal 32, Policy 32.9: "Use traffic impact assessments (TIA) to ensure adequate access and capacity."

-Applicant failed to submit the required TIA to allow analysis of impacts.

On careful examination of the application in reference to the applicable standards, the variances may not be granted. "Variances are considered to be extraordinary exceptions and are granted sparingly, only under peculiar and exceptional circumstances."

Downtown Neighborhoods ¶ 11, citing 8 E. McQuillin, *The Law of Municipal Corporations* § 25.162 (3d ed. 1983). Applicant's situation is not a peculiar or exceptional circumstance. To the contrary, it is an entirely ordinary and common circumstance.

In closing, the Court of Appeals' explanation that "variances should be granted sparingly, only under exceptional circumstances. To do otherwise would encourage destruction of planned zoning," is particularly relevant. Here, the planned zoning – planned so recently with the adoption of the SLDC – clearly requires driveway grades of less than 10% and intersection grades of less than 5%. The Association asks that you not permit destruction of that planning so soon after its adoption. Please deny the variance request.

Sincerely,

/s/

Christopher L. Graeser

enc: listing documents

August 9, 2016

Santa Fe County Zoning Hearing Office and Planning Commission

Santa Fe County

102 Grant Avenue

Santa FE, NM 87501

Re: Hearts Way Ranch Variance Request

Gentlemen:

We are the owners of 7 Owl Creek Road, Santa Fe, NM and we are neighbors to the Hearts Ranch property. We are writing to you in regards to the above referenced Heart's Way Ranch Retreat Site Development Plan Application. We regret that due to prior obligations, we will be out of town and unable to attend the Hearing on this matter. Please accept this letter in lieu of our appearance at the Hearing.

We urge you to deny the variance request for the following reasons:

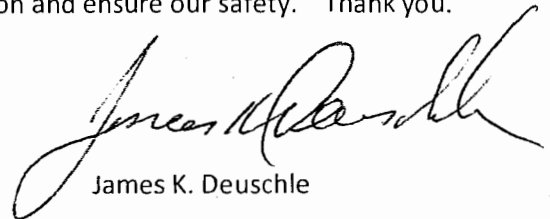
1. The La Barbaria Road, which is the only road accessing the applicant's property, is a private narrow, steep, twisty road that is privately maintained (graded, plowed, culverts maintained, etc.) by about eleven property owners to service the residences of the owners. Please note that the owners of the Hearts Way property are not among the owners maintaining La Barbaria Trail Road. This road is not even close to being in compliance with the Development Code. I note that the ingress and egress easements that burden the property owners who maintain the La Barbaria Trail Road calls for a twenty feet wide easement, in reality there are several portions of the road that are not twenty feet in width. If the purpose of the code is to guard the safety and welfare of the public and adjoining property owners, allowing this variance request would be a dereliction of the duty imposed by the Code.
2. Allowing this variance will create a precedent encouraging other future property owners in the La Barbaria Canyon to consider inappropriate commercial uses of their property in a neighborhood that historically has always been used for single family residential purposes. The granting of the variances requested by applicant will afford any such future applicant(s) seeking to use the neighborhood and road for a commercial venture the valid argument that the granting of a variance to Hearts Way and denying theirs would be "unjust".
3. The intended use of Hearts Way as an alcohol treatment facility (aka "sober wellness retreat") is irrelevant to the consideration of the variance. The application submitted to the Commission makes great weight of the social benefits and moral purpose of the proposed rehab use of the property. The Code does not entertain that the possibility of a social benefit of the intended use is or should be a criterion to be considered in the granting of a variance. Furthermore, this is a disingenuous attempt by the applicants to cloak themselves and their proposed facility as being

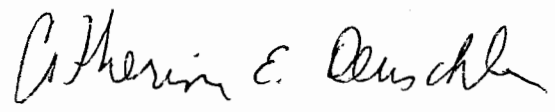
NBA-53

an altruistic endeavor to benefit society. The proposed facility is a commercial venture that, if the requested variances are approved, will create substantial gross income for the benefit of the applicants. The proposed clinic would be operating out of a high end residence in a residential neighborhood and it is obviously not going to be catering to persons who are without substantial financial means. This is not a charitable institution that is seeking your granting of a variance and I urge you not to be swayed by the applicant's characterization of their business as being somehow for the benefit of mankind and not for the benefit of their own pocket book in order make an emotional appeal to grant their variance requests out of the Commission's sense of social fairness and moral purpose.

4. It defies common sense to believe the proposed new use of the applicant's property will not result in a significant increase use of the road and also use of the road by persons who as employees and guests rather than neighbors will have no particular reason to concern themselves with the proper use of our road i.e., pulling over when vehicles meet, not traveling too fast to avoid creating excessive dust and ruts, slowly and cautiously going around the blind curves and blind hills all of which abound on La Barbaria Road and Trail. The prior residential use of the property did not entail the employment of cooks, therapists, yoga instructors, massage therapists, group hiking leaders, cultural tour vans, musicians, visitors of the "retreat guests" (aka patients), etc. (See page one of the May 26, 2016 application letter which sets forth various intended uses and activities the applicants seek to provide). The increased use of the non-complying road should not be permitted as it would result in a detriment to public health and safety.
5. The applicants are far from acting in good faith. The applicants have not posted any notice of the proposed hearing in any manner on the La Barbaria Trail as of the date of this letter. It is my understanding that the only notice they posted so far was at the end of their drive which only the applicant's access. I did receive a letter advising me of the July 28, 2014 hearing that was postmarked on the last possible day of the required mail out date. We received no notice of the new hearing date as of today's date. The original application failed to consider the use of our private road as being necessary to the proposed Development which at best was an oversight and, at worst, a blatant attempt to as covertly as possible obtain the requested variance without alerting the users of the La Barbaria Trail Road of the new use of it by the applicants.

In conclusion, please follow the Code and deny this application and ensure our safety. Thank you.


James K. Deuschle


Catherine E. Deuschle

Dear Commissioners,

On Thursday, July 28 the Planning Commission's Hearing Officer will be reviewing a variance for 34 Sendero de Corazon.

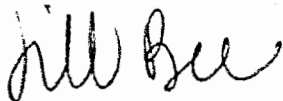
Susan Carter and Shari Scott want to provide a critically-needed service to women who are in the early days of sobriety. Following completion of a treatment program, four to six women at a time would come to Heart's Way Ranch to continue healing. Santa Fe is an exemplary place for this to happen.

Currently the property at 34 Sendero de Corazon allows for short term rentals. Due to the size of the casitas the roads and surrounding neighbors could be impacted by random renters. The clients at Heart's Way Ranch would be well-vetted and traveling as a group, not individually, as they would not have personal vehicles. The services provided to the clients are invaluable as they prepare to re-enter the world. They will be given the tools to make better choices and to help break the cycle of addiction. The program they want to implement will be life changing and for many lifesaving. From a personal perspective, I lost a very close friend to suicide, whom had gone thru a treatment program for alcoholism at Betty Ford. Unfortunately there was not a Heart's Way Ranch to keep the good work that happened at Betty Ford going and alcoholism won.

A tool that the program will utilize is giving back to the community. Not only will the charities in Santa Fe benefit in the short run by allowing the clients to help others, but if they are like me, the benefits will last far beyond their stay at Heart's Way by financial support.

Heart's Way Ranch will benefit clients and the community. Please support the variance for women to get the help they need. Shari and Susan conducted the due diligence necessary prior to buying the property and not approving the negligible driveway variances puts this life-saving program in serious jeopardy. Given the high mortality rate of people dying daily from drugs and alcohol abuse it would not only be seriously disappointing, but negligent to the women who are in desperate need of help in the state of New Mexico as well as our country.

Thank you for your thoughtful consideration.



Jill Bee
356 Hillside
Santa Fe NM 87501
(505)954-1911



NBA-55

From: Roger A Ayres <rogerbill8436@gmail.com>

Date: July 9, 2016 at 10:29:12 AM MDT

To: "jshelton@newmexico.com" <jshelton@newmexico.com>, Adam Horowitz <primordials@earthlink.net>, Catherine Joyce-Coll <maxandcatherine@lobo.net>, "dojundw@icloud.com" <dojundw@icloud.com>, Debby Park <rayanddeb@gmail.com>, Denez Lopez <denezg@cs.com>, Katherine Shelton <kakshelton@gmail.com>, Ellen Souberman <isoub@aol.com>, Gail Haggard <plantsofthesouthwest@gmail.com>, James Deuschle <JKDeuschle@coxinet.net>, Kate Sinnott <patagonia40@optonline.net>, Mike Peterson <mpeters7@hughes.net>, Richard Bank <bank@cybermesa.com>, Susan Carter <src12@me.com>, Willa Shallit <willa@maidennation.com>, "wtjordan2@gmail.com" <wtjordan2@gmail.com>

Subject: Re: Proposed retreat

Bravo and thank you Jay. Your efforts are greatly appreciated... You may not be an Attorney (LOL) but your position has more legal precedent in your contiguous property line. Personally I believe that this world needs all the good we can bring... And I do believe this is a very good and worthy venture. Good for the community and our small valley. Thank you Susan for sharing your business plan and your intension with us on a personal basis. You have my full cooperation and support. Susan, I/We are available in writing, and in person as needed.

50 C

Roger and Wendy

WBA-56

Dear Commissioners,

On Thursday, July 28 the Planning Commission's Hearing Officer will be reviewing a variance for 34 Sendero de Corazon.

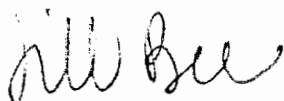
Susan Carter and Shari Scott want to provide a critically-needed service to women who are in the early days of sobriety. Following completion of a treatment program, four to six women at a time would come to Heart's Way Ranch to continue healing. Santa Fe is an exemplary place for this to happen.

Currently the property at 34 Sendero de Corazon allows for short term rentals. Due to the size of the casitas the roads and surrounding neighbors could be impacted by random renters. The clients at Heart's Way Ranch would be well-vetted and traveling as a group, not individually, as they would not have personal vehicles. The services provided to the clients are invaluable as they prepare to re-enter the world. They will be given the tools to make better choices and to help break the cycle of addiction. The program they want to implement will be life changing and for many lifesaving. From a personal perspective, I lost a very close friend to suicide, whom had gone thru a treatment program for alcoholism at Betty Ford. Unfortunately there was not a Heart's Way Ranch to keep the good work that happened at Betty Ford going and alcoholism won.

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Heart's Way Ranch will benefit clients and the community. Please support the variance for women to get the help they need. Shari and Susan conducted the due diligence necessary prior to buying the property and not approving the negligible driveway variances puts this life-saving program in serious jeopardy. Given the high mortality rate of people dying daily from drugs and alcohol abuse it would not only be seriously disappointing, but negligent to the women who are in desperate need of help in the state of New Mexico as well as our country.

Thank you for your thoughtful consideration.



Jill Bee
356 Hillside
Santa Fe NM 87501
(505)954-1911

NBA-57

*Cynthia and Bill Pridham
12 Mountain Top Road
Santa Fe, New Mexico 87505*

July 31, 2016

Santa Fe County Planning Commission
John Lovato, Senior Development Review Specialist
c/o jennifer@jenkinsgavin.com

RE:

HEART'S WAY RANCH a proposed sober-living wellness retreat
34 Sendero de Corazon, Santa Fe, New Mexico 87505

Dear Mr. Lovato,

Our long time friend, Susan Carter, is proposing to develop a sober-living wellness retreat on her property at 34 Sendero de Corazon in Santa Fe County. As her neighbors in La Barbaria Canyon and property/homeowners in the Overlook development, we are writing this letter of our approval and support for her retreat.

For more than thirty years, we have known Susan both personally and professionally and hold her in the highest esteem. Her educational background and business career accomplishments in public relations and executive management for national not-for-profit organizations are highly regarded and well known. While Susan's business achievements are essential ingredients for the success of Heart's Way Ranch, we would like to take this opportunity to share our knowledge of her sincere compassion to serve her community. We have watched Susan in the Dallas Fort Worth communities create volunteer opportunities for many to serve. She has a gift for building productive and meaningful alliances between community leaders and service organizations. This kind of resourcefulness and leadership from Susan will undoubtedly help connect Heart's Way Ranch residences with valuable service work for the needs of our Santa Fe community.

We hope you will consider, not only Susan's personal commitment to wellness and her passionate resolve to help others find wellbeing, but also her financial commitment to re-locate in Santa Fe and her desire to help build a noteworthy asset for Santa Fe and New Mexico.

May she be granted all necessary permits to pursue the development of Heart's Way Ranch

Respectfully submitted,

Cynthia Collins-Pridham and Bill Pridham

NBA-58

July 20th, 2016

Ref: Susan Carter – Heart's Way Ranch Program

Attn: John Lovato, Senior Development Review Specialist

Dear Mr. Lovato,

I have known Ms. Carter for some time, as a congregational member at the church I attend. She told me about her ideas to help women, and was kind enough to give me a tour of her home and property as she was planning the Heart's Way Ranch program in Santa Fe, New Mexico. I was so impressed with her idea and plans to reach out to women with special needs, that I wanted to write you and express my heart felt support for Ms. Carter, and support her endeavor to establish a sober-living wellness retreat at her property located at 34 Sendero de Corazon off La Barbaria Trail.

You may already know this, but Ms. Carter has told me that the clients of the Heart's Way project will have the opportunity to be involved with service projects throughout the Santa Fe community, and that her program will highlight the intrinsic value of lessons that come from caring for others. After being part of the Heart's Way Ranch program, women will be able to re-enter their lives with a firm foundation of recovery, a network of support, and a set of unique tools for living life wholly again.

I would encourage any decision makers, including yourself, who are concerned about the Santa Fe community, to get behind Ms. Carter's project by approving a county permit for her site development plan and a business permit concurrently. Our community is in great need of such a project. A unique property, like the Sendero de Corazon one, which possesses the assets needed for this project, is a rare commodity, let alone a person with the qualities, experience and desire for community service like Susan Carter to head it up.

Please strongly consider and approve any variances needed to get this project rolling by supporting Ms. Carter's project as soon as possible. If you have any questions, I will be glad to try and answer them. My contact information is below. Thank you for your consideration.

Sincerely,

Donald J. Converse
3102 Plaza Blanca
Santa Fe, NM 87507
505-303-3477

NBA-59

Rev. Duchess Dale
Santa Fe Center for Spiritual Living
505 Camino de los Marquez
Santa Fe, New Mexico 87505
505-983-5022

20 July 2016

Mr. John Lovato; and/or To Whom It May Concern:

Hello,

Please accept this letter for consideration as you proceed with approving any variances and permits for the Heart's Way Ranch, wellness retreat property in Santa Fe, New Mexico.

As Susan Carter's minister here in Santa Fe, I feel I have a unique perspective in endorsing and supporting the sober-living and healing retreat center she has created for professionals in a recovery community.

The opportunity that Heart's Way Ranch is going to offer is invaluable to the women who are in need of a safe haven for their recovery and healing process. The beautiful environment and facility offer guests a chance to use yoga, art, music, meditation, healthy foods, and other modalities for ensuring a strong, vibrant and safe process. This will provide important re-entry tools, experiences and service opportunities that are necessary to success to return to today's workplace and society.

In addition, I can speak to the business acumen, personal understanding and amazing compassion that Susan brings to this program. Anyone who chooses to participate at Heart's Way Ranch as a recovery guest will be blessed by their experience there with Susan and Shari.

If I can be of further assistance or support regarding this project's success, please don't hesitate to contact me.

Blessings,

Rev. Duchess Dale

Rev. Duchess Dale

Senior Minister

RevDD@SantaFeCSL.org

WBA-60

From: wendy Jordan <wtjordan2@gmail.com>

Date: July 12, 2016 at 12:29:56 AM CDT

To: Willa Shalit <willa@rtmld.com>, Roger Ayres <rogerbill8436@gmail.com>, Jay & Katherine Shelton <jshelton@newmexico.com>, Adam Horowitz <primordials@earthlink.net>, Catherine Joyce-Coll <maxandcatherine@lobo.net>, Dan Welch <dojundw@icloud.com>, Deborah Dasburg Park <rayanddeb@gmail.com>, Denez Lopez <denezg@cs.com>, Katherine Shelton <kakshelton@gmail.com>, Ellen Souberman <isoub@aol.com>, Gail Haggard <plantsofthesouthwest@gmail.com>, James & Cathy Deuschle <JKDeuschle@coxinet.net>, Otis & Kate Sinnott <patagonia40@optonline.net>, Michael & Melissa Peterson <mpeters7@hughes.net>, Richard & Laura Bank <bank@cybermesa.com>

Cc: Susan Carter <src12@me.com>

Subject: Re: Proposed retreat

Dear Neighbors,

It's obvious there is a lot of thought, discussion and concerns being presented regarding Heart's Way Ranch, the sober-living wellness retreat coming to the La Barbaria Trail neighborhood. In considering how to present MY thoughts about this, I decided to take a hike around the Dasburg property and up into the Santa Fe Nat'l Forest. As we entered the path, 4 mountain bikers were coming down the trail. The hikers and bikers come on our properties to enjoy the healing beauty of these mountains, fresh air, and sport. My understanding is that we welcome these folks, despite the fact that we occasionally find cigarette butts, trash, and sometimes noise is an issue.

So now we are considering Susan Carter's plan of having a well thought out, organized and regulated healing retreat for 4 to 6 women who will reside quietly, without vehicles, chaperoned when they have classes or service projects, whose intent is healing and recovery for four to six weeks at a time. These are not women who are entering a recovery program, these are women who will have already gone through recovery and are continuing to work hard to change their lives, and need & WANT to embrace a deeper level of psychological healing and spiritual awareness before re-entering their lives.

Professionally, I have also worked with people in recovery. These women would present much less risk to the community than people renting guesthouses up here for vacations in Santa

Fe. And I can't imagine a more beautiful gift than to share the healing energy of the mountains with a handful of women at a time... a gift we all enjoy daily because we are blessed to live here full-time.

I met with Susan and asked her about some of the concerns I've been hearing about... traffic and increased road usage, smoking, more garbage, etc. How impressive that Susan not only answers these questions, but has been so welcoming and accommodating as to invite all of us up to see the property, get to know her, keep the communication open and honest, and LISTEN to the concerns. I believe Susan and her business partner, who have stunning credentials in this field, will work hard to prevent or correct any problems that might arise as the result of their business.

Personally I welcome Susan and Heart's Way Ranch and I support her efforts to bring healing and spiritual awareness back to those who are seeking it.

Wendy Jordan

NBA-61

July 26, 2016

Santa Fe County Planning Commission
Attn: John Lovato, Senior Development Review Specialist

Dear Mr. Lovato,

We're writing to support the issuance of road variances for the proposed Heart's Way Ranch business at 34 Sendero de Corazon, Santa Fe.

Certainly, when the County rezoned this area to include business use such as retreats, they understood that the roads here—including the primary access route La Barbaria Trail and private drive Sendero de Corazon—are unpaved, narrow, and in places, legal non-conforming.

We lived on the California Coast for more than 40 years; a region with very strict commercial development restrictions. Therefore, we understand, and even sympathize, with individuals who desire no growth in the areas they feel protective about. We've lived in earthquake and high fire danger communities so we understand concerns that first responders have in terms of saving lives where access is problematic. However, Ms. Carter and Ms. Scott are proposing a venture that has virtually no impact on the area's traffic volume in comparison to other ventures that are allowed under the County's zoning laws.

This nearly 40-acre "family compound" offered for sale late last year could have seen buyers who chose to use it for either private or public use. Who could know the type of traffic volume that would ensue? Many uses could have far exceeded Heart's Way Ranch's planned use of the property. Imagine the traffic influx if a movie ranch or a skating rink—both approved uses for that very parcel—were proposed instead. For private use, the property could easily accommodate up to 14 people living there full-time. Imagine if they all had cars and commuted to work every day.

Heart's Way Ranch will have 4-6 women maximum per month participating in the retreat program and none will be allowed to drive a personal vehicle on the property. Nearly all activities will be held on the property and traffic volume will be minimal in terms of cars frequently coming and going. What's more, the endeavor is a noble undertaking and brings a much needed value to our community.

It would be great if the original engineers had graded Sendero de Corazon properly. Why they didn't is a mystery and it's interesting that no one has complained about its steeper grade until now, when a business has been proposed. To bring that road to compliance by changing the parcel's grade in the two disputed areas is nearly impossible now, and would tear up the land in a way that could negatively impact the environment and wildlife. The variances should be granted without delay.

Sincerely,

Jain Lemos & Sandy H. Miller
40 Craftsman Road
Santa Fe, NM 87008

NBA-62

John Lovato
Senior Development Review Specialist
Santa Fe County

July 22, 2016

Dear Mr. Lovato,

It is with great pleasure, and without reservation that I write to support the opening of Heart's Way Ranch in Santa Fe, New Mexico. I have personally known and admired Susan Carter for over 40 years and have professionally known Shari Scott for over 20 years. Shari is a well-known, well-regarded mental health professional in the Dallas community with whom I have collaborated toward the benefit of women, children, and families numerous times. She is a skilled clinician and will bring only the highest quality and utmost care to the women who she plans to serve at Heart's Way Ranch. Susan's development expertise, having been the former Chief of Staff for Susan G. Komen, combined with Shari's clinical expertise, makes for a balanced and comprehensive program that will serve small group of women seeking wellness and healing in the beautiful Santa Fe area. As former Director of a large, private nonprofit Family Therapy Program in Dallas, I fully and completely support and endorse this incredible gift to the women whom Heart's Way Ranch will serve as well as the community of Santa Fe.

I have had the great pleasure of visiting the property on several occasions and find the roads to be fully accessible, and very well maintained. It is my understanding that the current casitas will transition from having fulltime residents to a small number of visiting retreat participants. This should result with an actual reduction in passenger traffic on the road.

Heart's Way Ranch has my full, heartfelt and complete endorsement.

Sincerely,

Ann Reese, LCSW, LMFT
3005 Monte Sereno Dr.
Santa Fe, NM 87506
214-662-1467

NBA-63

38 Camino Tortuga
Santa Fe, NM 87505
July 16, 2016

Santa Fe County Planning Commission
Attn: John Lovato, Senior Development Review Specialist

Dear Councilors:

After having thought, discussed, and prayed over the issue of changing the course of Sendero de Corazon road and knowing that it has been successfully driven-over for years past, we, Sandra and Ken Rowley, agree giving Susan Carter the two variances to keep it as it now exists. The labor, cost, disturbance of the terrain, and the time to make the changes will delay her efforts to enact a new paradigm to help women, who have already gone through rehabilitation from substance abuse, to reenter life in meaningful and successful ways. The goal is self-realization: to learn who they really are and to have the power, presence, and persistence to live meaningful, constructive lives. The women whom Susan intends to serve have previously led very successful lives, and, after a long "sleep" (similar to Rip Van Winkle's), have awakened, with rehabilitation already accomplished, to a world with major changes. This program will allow them to become whole persons again, equipped to reenter society, live fulfilling and meaningful lives.

This new approach that Susan Carter is instigating has the potential to revolutionize effective, lasting, and full recovery. Heart's Way Ranch and the center will create a new paradigm that furthers necessary change and is vitally needed for women.

Sincerely yours,
Sandra K. Rowley
Kenneth C. Rowley, M.D.

NBA-64

July 12, 2016

To John Lovato, Senior Development Review Specialist
Santa Fe County

Re: Heart's Way Ranch

Dear Mr. Lovato,

I am writing with enthusiastic support in favor of Heart's Way Ranch. It has been my pleasure to meet both Susan Carter and Shari Scott and to have met several other people involved with other sober living facilities. I believe the vision Susan and Shari have for this new and inspired residential center is of tremendous value to Santa Fe.

Santa Fe is well known for its wide variety of alternative wellness programs and practitioners. The Heart's Way Ranch promises to add a layer of sophistication to women seeking a new way of living in the world in a sober, mindful and thoughtful manner.

In my opinion, the smallness and exclusivity of the program proposed by Heart's Way Ranch creates no threat to the community at large or to the neighborhood immediately around the Ranch, located at 34 Sendero de Corazon. It is my understanding that the proposed clientele, both as occasional visitors and as residential users, would be less than had previously been the case when several full-time occupants made several daily round-trip visits to the address in question.

I have no doubt there are several forcefully vocal naysayers to this project who fear for the safety of the neighborhood and the traffic concerns on La Barbaria Trail. Heart's Way Ranch is to be a place of contemplation and healing, not a party house. It will be made up of sophisticated women, who, for various reasons, find themselves in need of kindness and support during the reshaping of their lives.

I am pleased to offer my support to Heart's Way Ranch and hope that the county will do the same.

Sincerely,

Karren Sahler

4146 Big Sky Road
Santa Fe, NM 87507
505-501-1385

NBA-45

John Lovato
Senior Development Review Specialist
Santa Fe County

July 22, 2016

Dear Mr. Lovato,

I am a long-time resident of Santa Fe and have known Susan Carter and Shari Scott for over 40 years. I can without reservation speak to their high standards, service to the healthcare fields, and their dedicated volunteerism.

I support the proposed women's retreat and view it as a real feather in Santa Fe's cap as a much needed service to women who seek a first-in-class, step down program. On several occasions I have visited the property and find the existing driveway in excellent condition and appropriate to the mountainous environment. It is my understanding that there will actually be a net "reduction" in road traffic, as the casitas will no longer have the current fulltime renters versus the occasional visiting clients. This will result in a reduction of road noise and overall traffic. It is for these reasons that I endorse this contribution to the community without reservation.

Please feel free to contact me directly if you have any further questions at 214-662-1570.

Sincerely,

Roger A. Said
3005 Monte Sereno Dr.
Santa Fe, NM 87506

NBA-66

From: jshelton@newmexico.com

Date: July 8, 2016 at 3:07:09 PM MDT

To: Adam Horowitz <primordials@earthlink.net>, Catherine Joyce-Coll <maxandcatherine@lobo.net>, Dan Welch <dojundw@icloud.com>, Debby Park <rayanddeb@gmail.com>, Denez Lopez <denezg@cs.com>, Ellen Souberman <isoub@aol.com>, Gail Haggard <plantsofthesouthwest@gmail.com>, James Deuschle <JKDeuschle@coxinet.net>, Jay Shelton <jshelton@newmexico.com>, Kate Sinnott <patagonia40@optonline.net>, Mike Peterson <mpeters7@hughes.net>, Richard Bank <bank@cybermesa.com>, Roger Ayres <rayres8436@aol.com>, Susan Carter <src12@me.com>, Willa Shallit <willa@maidenation.com>

Cc: Katherine Shelton <kakshelton@gmail.com>

Subject: Proposed retreat

Neighbors:

Re Susan Carter and Shari Hugh Scott proposed retreat at the former Craig Lofton property

I've been on a quest the last few months to better understand this situation. I am not for or against their proposed use of the property until I have more information.

To learn more about the legality of such land use, I went to the County website to look at the new county "code" – the Santa Fe County Sustainable Land Development Code, adopted in December 2015 (<http://www.santafecountynm.gov/media/files/ClickableSLDC.pdf>). I discovered that this new code looks very different from the old one. Under the old code, almost no commercial enterprise was allowed up here. I and perhaps others up here automatically thought that of course a retreat business must be illegal, because we had the old code in our minds. I discovered that in the new code, many many types of businesses are a "permitted use" in our Rural Fringe zone, including, believe it or not:

- Animal hospital
- Assisted living facility
- Bed and Breakfast inn
- Camps, camping, and related establishments
- Churches, temples, synagogues, mosques, and other religious facilities
- Commercial greenhouse
- Day care center
- Fitness, recreational sports, gym, or athletic club
- Medical clinics
- Movie ranch
- Produce warehouse
- Retreats
- School or university (private)
- Skating rink
- Solid waste collection transfer station
- Stables, commercial, any number of horses
- Zoological park

NBA-67

I'm embarrassed I did not follow the code development process more closely over the last few years – I had no idea there was such a shift in allowed uses of land up here.

As I understand it, being on this list does not automatically mean approval, as there are other general requirements, including, I think, water, fire safety, traffic, noise..... Perhaps those hurdles are, in reality, what restricts activities up here.

But this list seems to me to weaken the case against the Susan and Shari proposal, since the new code appears to allow (and perhaps even encourage) economic development generally. We may not like any increased traffic up here, but many other permitted uses might have a larger impact than Susan and Shari's proposed retreat.

In general, I find it useful to consult primary sources when possible. That is why I went to the county code. And that is why I have spoken directly with Susan a few times, and have had informative and pleasant conversations. You might want to do the same. My impression is that she would care about and be responsive to neighbor concerns.

For me, the key question is legality. If the proposed use is clearly legal, I'm inclined not to fight it; if it is clearly illegal, it will fail. If the legal situation is gray, maybe we can work together on the issues of greatest concern.

My main points are 1) that the new code seems to change the context of this proposed use, and 2) I urge direct communication amongst everyone involved.

Jay

NBA-68

July 21, 2016

SFC CLERK RECORDED 02/22/2017

A. Anna Speth, own 17+ acres that join the land owned by Susan Carter.

I urge you to grant the two variances that Susan Carter is requesting. The Wellness Center is not only undeniably needed, but would be of great benefit to the Santa Fe Community. It is an innovative program and service that would put our community on the map for helping women successfully re-integrate into society. Susan Carter not only has the vision to create The Wellness Center in a manner that meshes with the lifestyle of our community, but she has the knowledge and professionalism to sustain the benefits to our community and the women she serves. It would be an injustice to Santa Fe and many if she is not granted these variances in order to continue her work with The Wellness Center.

Thank you,
Anna Speth

NBA-69

A Petition, I wholeheartedly support the proposed Heart's Way Ranch Retreat and urge Santa Fe County to approve the requested driveway variances. Retreats are permissible in the Rural Fringe zoning district and this proposal is appropriate and welcome in our immediate and surrounding neighborhoods.

	Name	Address	Zip Code	Telephone	Signature
1	Audrey Ault	7317A OSFT, SF	87505	670-7911	Audrey Ault
2	Don DeVito	42 Veneda Serran	87509	698-1868	Don DeVito
3	DAVE STRINE	153 Ave Ponderosa	87535	699-6421	Dave Strine
4	My Smit	7408 B Old SF. Rd	87505	577-0648	My Smit
5	Shirley Ure	7408 B OSFT	87507	505-514-5630 E.S.	Shirley Ure
6	Kitty Ault	7317A OSFT SF	87505	670-8824	Kitty Ault
7	Lucie Harkley	114 La Placita Cir	87505	860-2481911	Lucie Harkley
8	SHERIE STIVER ZINN	105 MATED A	87505	930-4105	Sherie Stiver
9	DAVE SHIR ZINN	DO "	" DO	" DO	Dave Shir
10	Anne Sides	72 Double Arrow Rd	87505	982-0582	Anne Sides
11	Hampton Sides	72 Double Arrow Rd	87505	982-0582	Hampton Sides
12	ANDY BARTLETT	14 Cam. Queen Sabe	87505	984-8760	Andy Bartlett
13	Lowell Bartlett	14 Cam. Queen Sabe	87505	984-8760	Lowell Bartlett
14	ALAN BALL	PO Box 4403	87502	470-7153	Alan Ball
15	ALAN BALL	PO Box 4403	87502	470-7153	Alan Ball
16	ALAN BALL	PO Box 4403	87502	470-7153	Alan Ball
17	ALAN BALL	PO Box 4403	87502	470-7153	Alan Ball
18	ALAN BALL	PO Box 4403	87502	470-7153	Alan Ball
19	ALAN BALL	PO Box 4403	87502	470-7153	Alan Ball
20	ALAN BALL	PO Box 4403	87502	470-7153	Alan Ball
21	ALAN BALL	PO Box 4403	87502	470-7153	Alan Ball
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CASE NO. V16-5150

Heart's Way Ranch, Susan Carter, Owner, Applicant

RECOMMENDED DECISION AND ORDER

THIS MATTER came before the Sustainable Land Development Code Hearing Officer for hearing on August 25, 2016, on the application of Heart's Way Ranch, Susan Carter, Owner (Applicant) for Three Variances: a Variance of Chapter 7, Section 7.11.6.6 to Allow the Grade of the Approach at the Intersection to Exceed 5%; Chapter 7.11.2, Table 7-13, to Allow the Overall Grade of the Driveway to Exceed 10%; and 7.11.2 Table 7-13 – Local Road Design Standards to Allow Access from Offsite Roads That Do Not Meet Code, of the Sustainable Land Development Code (SLDC). The Applicant proposes a Retreat Facility consisting of 2 casitas, a yoga area, and a main residence on 39.5 acres (Property). The site is zoned as Rural Fringe (RUR-F). Appendix B of the SLDC designates a retreat as a permitted use within the RUR-F Zoning District. The Property is located at 34 Sendero De Corazon, Via La Barbaria Trail, within Township 16 North, Range 10 East, Section 9 (Commission District 4). The Hearing Officer, having reviewed the application, staff reports, and having conducted a public hearing on the request, finds that the application is well-taken and should be granted, and makes the following findings of fact and conclusions of law:

1. On May 27, 2016, the Applicant submitted their application for the variances.
2. As required by the SLDC, the Applicant presented the application to the Technical Advisory Committee (TAC) on May 19, 2016, at the regular scheduled monthly meeting, which satisfied the requirements set forth in Chapter 4, Section 4.4.4.3 Pre-application TAC Meeting and Table 4-1.



NBA-98

3. Notice requirements were met as per Chapter 4, Section 4.6.3., General Notice of Application Requiring a Public Hearing, of the SLDC. In advance of the hearing on the Application, the Applicant provided an affidavit of posting of notice of the hearing, confirming that public notice posting regarding the application was made for fifteen days on the Property, beginning on August 10, 2016. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on August 10, 2016, as evidenced by a copy of that legal notice contained in the record. Notice of the hearing was sent to owners of land within 500' of the subject Property and a list of persons sent a mailing is contained in the record. Staff prepared the sign for posting on the Property and will review its sufficiency and whether a second sign is warranted prior to the Planning Commission hearing.

4. The site is within the Rural Fringe Zoning District and is zoned as Rural Fringe (RUR-F). Appendix B of the SLDC designates a retreat as a permitted use within the RUR-F Zoning District. The Property is located at 34 Sendero De Corazon, via La Barbaria Trail, within Township 16 North, Range 10 East, Section 9 (Commission District 4).

5. The following SLDC provisions are applicable to this case:

A. Chapter 7, Section 7.11.6.6 provides:

Grades at the approach of intersections shall not exceed five percent (5%) for one hundred (100) linear feet prior to the radius return of the intersection, excluding vertical curve distance.

B. Chapter 7, Table 7-13 Rural Road Classification and Design Standards (SDA-3) requires a 10% or less grade for the driveway to the Property

C. Chapter 7, Section 7.11.2, Table 7-13, Local Road Design Standards, requires offsite roads to have a 20' driving surface.

D. Chapter 14, Section 14.9.7.1, Variances, Purpose, states:

The purpose of this section is to provide a mechanism in the form of a variance that grants a landowner relief from certain standards in this code

where, due to extraordinary and exceptional situations or conditions of the Property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner. The granting of an area variance shall allow a deviation from the dimensional requirements of the Code, but in no way shall it authorize a use of land that is otherwise prohibited in the relevant zoning district.

E. Chapter 14, Section 14.9.7.4, Variances, Review criteria states:

A variance may be granted by only a majority of all the members of the Planning Commission (or the Board, on appeal from the Planning Commission) where authorized by NMSA 1978, Section 3-21-8(C):

1. where the request is not contrary to public interest;
2. where, owing to special conditions, a literal enforcement of the SLDC will result in unnecessary hardship to the Applicant; and
3. so that the spirit of the SLDC is observed and substantial justice is done.

F. Chapter 14, Section 14.9.7.5 Variances, Conditions of approval states:

1. The Planning Commission may impose conditions on a variance request necessary to accomplish the purposes and intent of the SLDC and the SGMP and to prevent or minimize adverse impacts on the general health, safety and welfare of Property owners and area residents.
2. All approved variances run with the land, unless conditions of approval imposed by the Planning Commission specify otherwise.
3. All approved variances automatically expire within one year of the date of approval, unless the Applicant takes affirmative action consistent with the approval.

6. In support of the requested variances, the Applicant provided responses as follows:

1) The request is not contrary to the public interest in that the private driveway which will be used primarily by the Property owners for access to the single family residence at the easternmost end of the drive, and by four to six retreat guests to access the two casitas that will provide overnight accommodations, was constructed pursuant to previous code

requirements, has fire protection measures already constructed and the proposed use will be a decrease in intensity.

2) Owing to special conditions, a literal enforcement of the SLDC will result in unnecessary hardship to the Applicant in that the Property comprises very steep terrain and compliance with the SLDC grade requirements for the driveway would excessively damage the terrain and be prohibitively expensive and it would cause unnecessary hardship (and perhaps not be possible) to widen the access road (La Barberia Trail) or reduce the road grade at the intersection.

3) The spirit of the SLDC is observed and substantial justice is done by minimizing adverse environmental impacts that any reduction in driveway grade would cause while satisfying requirements for emergency access and life safety. The variance request observes the spirit of Section 1.4.2.11 of the SLDC which encourages local small businesses in order to support a balanced, vigorous economy.

7. Staff recommended denial of the requested variances.

8. At the public hearing, there was testimony both for and against the requested variances. In support, there was testimony in regard to the need for the business, the soundness of the Applicant, the adequacy of La Barberia Trail and of the driveway serving the Property. In opposition, there was testimony as to the alleged legal insufficiency of the variance requests, the inadequacy of La Barberia Trail, the fire hazard in the area and related matters.

The Hearing Officer finds:

1. Based on the application and the evidence and testimony presented at the public hearing as described herein, the use for which the variance is requested:

A. is not contrary to public interest;

B. owing to special conditions, a literal enforcement of the SLDC will result in unnecessary hardship to the Applicant; and

C. Granting the variance will result in the spirit of the SLDC being observed and substantial justice done.

2. An extraordinary and exceptional situation has been demonstrated due to the steep terrain of the Property and the avoidance of scarring of the hillside to reconstruct the driveway, which is well constructed and contains fire protection measures including pull-out areas and two 10,000 gallon water storage tanks; it would be difficult or impossible to widen La Barberia Trail (and prohibitively costly) or to change the grade of the intersection of La Barberia Trail as it is an existing road constructed many years ago with inadequate easement; and denying the variance requests would hinder the spirit of the SLDC in fostering local businesses.

3. The conditions for approval of the requests are recommended as follows:

a. The turnouts and turnarounds of the driveway shall be maintained as approved by the County with an all-weather driving surface and with an un-obstructed vertical clearance of 13'-6"; and

b. The driveway shall meet a minimum 28' inside radius on curves.

c. The entrance gate at the top of Sendero Del Corazon shall be set to open further to allow for the increased turn and radius into the Casita B driveway.

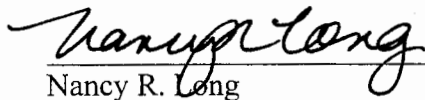
d. Due to the potential access issues and remote location of this project, for life safety and property protection, the Applicant shall install Automatic Fire Protection Sprinkler systems meeting NFPA13R requirements in Casitas A&B.

SFC CLERK RECORDED 09/03/2016

- e. The Applicant shall comply with all applicable regulations within SFC Ordinance 2001-11/EZA 2001-04 as applicable for the Urban Wildland Interface Code governing such area.
- f. The Applicant shall have a vegetation management plan as required by the Urban Interface Fire Code 2001-11 for approval by the County.

WHEREFORE, the Hearing Officer recommends approval of a Variance of Chapter 7, Section 7.11.6.6 to Allow the Grade of the Approach at the Intersection to Exceed 5%; Chapter 7.11.2, Table 7-13, to Allow the Overall Grade of the Driveway to Exceed 10%; and 7.11.2 Table 7-13 – Local Road Design Standards to Allow Access from Offsite Roads that do not meet code, all of the Sustainable Land Development Code (SLDC), subject to the recommended conditions of approval.


Respectfully submitted,


Nancy R. Long
Hearing Officer

Date: 8-31-16

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss SLDC HEARING OFFICER 0
PAGES: 6

I Hereby Certify That This Instrument Was Filed for
Record On The 2ND Day Of September, 2016 at 09:34:54 AM
And Was Duly Recorded as Instrument # **1803542**
Of The Records Of Santa Fe County

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



**TRANSCRIPT OF THE
SANTA FE COUNTY
SLDC HEARING OFFICER MEETING**

Santa Fe, New Mexico

August 25, 2016

I. This meeting of the Santa Fe County Sustainable Land Development Code Hearing Officer meeting was called to order by Santa Fe County Hearing Officer Nancy Long on the above-cited date at approximately 3:00 p.m. at the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Staff Present:

Penny Ellis-Green, Growth Management Director
Vicki Lucero, Building & Services Manager
Tony Flores, Deputy County Manager
Mathew Martinez, Building & Development
Andrea Salazar, Assistant County Attorney
Jose Larrañaga, Case Planner
Victoria DeVargas, Fire Prevention

II. APPROVAL OF AGENDA

Hearing Officer Long approved the agenda as published which included a tabled item.

III. PUBLIC HEARING

- A. **CASE # V 16-5150 Hearts Way Ranch Variance:** Heart's Way Ranch, Susan Carter, Applicant, JenkinsGavin, Design & Development Inc., Agents, request three variances of the Sustainable Land Development Code (SLDC) to allow a retreat facility consisting of two casitas, a yoga area, and a main residence on 39.5 acres. The Applicant requests a variance of Chapter 7, Section 7.11.6.6 to allow the grade of the approach at the intersection to exceed 5 percent, a variance of Chapter 7.11.2, Table 7-13, to allow the overall grade of the driveway to exceed 10 percent in three separate locations in order to get to the casitas and main residence, and a variance of 7.11.2 Table 7-13 Local Road Design Standards to allow access from offsite roads that do not meet Code requirements. The 39.5 acre property is located at 34 Sendero de Corazon, via La Barbaria Trail within Section 9, Township 16 North, Range 10 East, Commission District 4, SDA-3.

NBA 72

Hearing Officer Long read the case caption and introduced Mr. Larrañaga who is presenting for Mr. Lovato.

MR. LARRANAGA Thank you, Hearing Officer Long. The property is a 39.57 acre tract within the Rural Fringe Zoning area as defined by Ordinance 2015-11, Sustainable Land Development Code, Chapter 8, Section 8.6.3. Appendix B of the SLDC designates a retreat as a permitted use within the Rural Fringe Zoning District.

The Applicants agent submitted an Application for a Site Development Plan, to request a retreat. It was discovered after submittal that the approach to the intersection exceeds grade requirements of 5 percent for 100 linear feet, and the grade of the driveway is 17 percent-21 percent in three locations. Permits were obtained in 1994, for a driveway with grades up to 14 percent. The approval was granted in accordance with the Extraterritorial Zoning Ordinance which allowed for grades of 15 percent. However, the driveway was not constructed to the approved plans. Therefore, variances are requested

Building and Development Services staff has reviewed the Site Development Plan for compliance with pertinent SLDC requirements. The driveway grade of 5 percent for 100 linear feet upon an intersection and the overall driveway grade to get to the casitas and main residence exceed the required grade of 10 percent, and offsite roads do not meet the 20 foot driving surface. La Barbaria Trail is a base course surface with a minimum width of 9 feet and a maximum width of 18 feet. The driveway that accesses the site is 14 feet in width with a base course surface and has pull out locations. Improvements were done for fire protection to include pull outs, and two 10,000 gallon water storage tanks with a draft hydrant that was placed at the main residence.

The Applicant addressed the variance criteria as follows:

1. Where the request is not contrary to the public interest.

The variance is requested for an existing private driveway and this is not contrary to the public interest. The driveway will be used primarily by the property owners for access to the single family residence at the top of the driveway. There will be four to six retreat guests that access the two casitas and provide overnight accommodations. In the past, full time tenants have rented the guest homes. Additionally, installing an automatic fire suppression system in the casitas and workshop will be in the public interest. The property owner implemented driveway improvements and the driveway is well constructed and in the context of the steep terrain which minimizes slope disturbance.

2. Where owing to special conditions, a literal enforcement of the SLDC would result in unnecessary hardship to the Applicant.

Special conditions exist that the subject lot comprised of steep terrain and reconstruction of the driveway would cause scarring of the hillside. The previous owner worked in collaboration with the County Fire Marshall in effort to conform to safety standards. Reconstruction of the driveway to the SLDC standards would result in unnecessary hardship to the Applicant.

3. So that the Spirit of the SLDC is observed and substantial justice is done.

Maintaining the existing driveway is consistent with the SLDC as stated in Section 1.4.2.20: "Ensure that building projects are planned, designed, constructed and managed to minimize adverse environmental impacts." The driveway was constructed to minimize adverse environmental impacts, while satisfying the requirements with emergency access and life safety.

Staff Response: Although tenants have moved in and out of the casitas, this area is in an Extreme Wildland Fire Hazard Area. During inclement weather, and on slopes in excess of 10 percent, emergency access may not be possible due to the severity of the steep slopes. The structures will be utilized as a retreat center, and the use may increase tenants which can increase traffic use. Chapter 14, Section 14.9.7.4, Variance Review criteria states, Where, owing to special conditions, a literal enforcement of the SLDC will result in unnecessary hardship to the Applicant. The road was not constructed per approved plan, but road design standards have changed since that time, and the Applicant is now requesting to change the use from residential to non-residential. Staff acknowledges that it would be difficult to widen the road width, reduce the road grade or widen these areas without disturbing large amounts of 30 percent slope, and causing visual scarring.

Fire Review Comments:

- Fire is requiring that roads shall meet the minimum County standards for fire apparatus access roads of a minimum 20 feet width. Roads, turnouts and turnarounds shall be County approved and all-weather driving surface and un-obstructed vertical clearance of 13-feet 6-inches within this type of proposed development.
- The Driveway /fire access shall not exceed 11 percent slope and shall have a minimum 28 foot inside radius on curves.
- The entrance gate at the top of Sendero Del Corazon shall be set to open further to allow for the increased turn and radius into the Casita B driveway.
- Due to the potential access issues and remote location of this project, for life safety and property protection this office shall require the installation of Automatic Fire Protection Sprinkler systems meeting NFPA13R requirements in the Casitas A and B.
- This development location is rated within an extreme Wildland Hazard Area and shall comply with all applicable regulations within the SFC Ordinance 2001-11, EZA 2001-04 as applicable for the Urban Wildland Interface Code governing such area.
- This project shall also have a vegetation management plan as required by the Urban Interface Fire Code 2001-11. This plan shall be submitted in advance for review and approval.

The Applicant addressed the variance criteria as follows:

1. Where the request is not contrary to the public interest.
The request is not contrary to the public interest. La Barbaria Trail is an existing local roadway which has been serving the vicinity for several decades. As stated in the variance criteria answers above, Hearts Way Ranch will be used by the property owners and their guests to access the existing residence and casitas.
2. Where, owing to special conditions, a literal enforcement of the SLDC will result in unnecessary hardship to the applicant:
The Local Road classification calls for two 10-foot wide driving lanes. As stated above, La Barbaria Trail lies within a 20-foot easement. The width of the easement, as well as the area's exceptional steep terrain, render it impossible to widen the road. A literal enforcement of the SLDC would result in unnecessary hardship to the applicant by essentially rendering access to Hearts Way Ranch an impossibility.
3. So that the spirit of the SLDC is observed and substantial justice is done.
This Variance request is intended to allow for a locally owned business with requisite zoning to move forward and commence operations. As stated above, Hearts Way Ranch is proposed sober-living wellness retreat center, which is permissible use in the Rural Fringe

Zoning District. The request therefore observes the spirit of the SLDC as stated in Section 1.4.2.11: Accommodate within appropriate zoning districts, regulations for protection and expansion of local small businesses, professions, culture, arts and crafts including live/work, home occupations and appropriate accessory uses in order to support a balanced, vigorous local economy.

Staff Response: Although the proposed use is permitted in this zoning district, all requirements of the Sustainable Land Development Code shall be met. La Barbaria Trail is a private road that does not meet the road standards of the Sustainable Land Development Code. La Barbaria trail is required to have a minimum of a 20-foot driving surface with two lanes that are 10 foot each, a 50 foot right-of-way, and adequate drainage. Many locations of La Barbaria Trail are 9 feet in width at minimum and 18 feet in width at maximum. There are limited areas that may allow for road width to be increased due to adjacent drainage and steep slopes in excess of 30 percent. The grade on this offsite road meets Code requirements and the road is in good condition.

Recommendation: Staff recommends denial of the Applicants request for a variance of Chapter 7, Section 7.11.6.6 to allow the grade of the approach at the intersection to exceed 5 percent, a variance of Table 7-13 to allow the grade of the driveway to exceed 10 percent, and a variance of 7.11.2 Table 7-13 Local Road Design Standards to allow access from offsite roads that do not meet Code requirements.

Staff requests the Hearing Officer memorialize findings of fact and conclusions of law in a written order. The Santa Fe County Planning Commission will be holding a public hearing on this matter on September 15, 2016. I stand for any questions.

HEARING OFFICER: Is there any planned new structures as part of this application?

MR. LARRAÑAGA: Hearing Officer Long, no, they are using the existing structures.

HEARING OFFICER: And there was a reference in your report to the driveway being constructed in 1994; was that by a prior owner of the property?

MR. LARRAÑAGA: Hearing Officer Long, I believe so. It was permitted but it wasn't constructed per the permit.

HEARING OFFICER: And also in your report when you're addressing La Barbaria Road it is stated that the grade on the road meets code requirements and the road is in good condition; is that correct? So it is just the width that is not adequate?

MR. LARRANAGA: Hearing Officer Long, that is correct.

HEARING OFFICER: Okay, thank you. All right, who will be speaking for the applicant? Anyone else? I can have you sworn in along with Ms. Jenkins?

[Those wishing to speak were during sworn.]

HEARING OFFICER: And if any of you do come forward to speak if you would just let me know so that it will also be on the record that you have been sworn in because there may be some others we'll need to swear in that didn't stand up at that time.

All right, you may proceed.

[Duly sworn, Jennifer Jenkins testified as follows]

JENNIFER JENKINS: Thank you, Ms. Long. My name is Jennifer Jenkins with JenkinsGavin and also I'm going to make a few other introductions here on behalf of Susan Carter and Sherry Scott. This would be Susan Carter and this would be Sherry Scott. This is Colleen

Gavin, also with JenkinsGavin. Gary Friedman, our counsel and Morey Walker with Walker Engineering. Everybody is here to answer any questions at any time.

So I have a brief presentation just to go over some salient points. Is it okay if I approach?

HEARING OFFICER: Yes.

MS. JENKINS: I'm going to put this one up first. So just to assist in kind of orienting where we are. Down here is Barbaria Road that comes off of Old Santa Fe Trail and that is a County road. It's a public road. And then at this point we get into the private portion of La Barbaria Trail. La Barbaria Trail is a private road within a 20 foot ingress and egress easement that the road is over 30 years old in that condition and as Jose said it's got very gentle grades that do comply with code and it is actually in excellent condition and I have some photos I can share with you about that.

As you wind in on La Barbaria Trail this outline in green here is the subject property. It is about 39.5 acres and at this point in the southwest corner La Barbaria Trail kind of continues this way and this would be Camino Tortoga so this is kind of the proverbial fork in the road and the Camino Tortoga comes up and serves some properties north of the subject and then it ends right around here. And then off of Camino Tortoga is the driveway that serves the subject property. And what we have, as Jose also said, we are proposing no new construction as part of the application for the retreat center. Commensurate with these variance request we have been running a parallel path for an administrative site development plan request that has been through the review process with County staff. So the site development plan for the retreat use, that processing is essentially wrapped up but it is subject to approval of the requisite variances.

So this is an existing workshop that will be remodeled to be kind of a yoga/art space – a gathering space of the guests. These are two existing casitas. Two bedrooms each and this is at the top of the driveway a 3,600 square-foot, this is the primary residence. And so the variance request before you are for the existing La Barbaria Trail and it's to note that, yes, the road has been here for over 30 years. A lot of subdivisions and a lot of building permits were approved by Santa Fe County with this road as access. So I would make an argument that this would be considered a legal non-conforming situation with respect to La Barbaria Trail.

The driveway Sendero de Corazon was permitted in 1994 under the EZO and at that time the maximum permissible grade at a driveway was 15 percent. The building permit at that time shows the maximum grade of the driveway at around 14 percent. Currently, there are a couple of spots where the driveway is about 17, a little over 17 percent and there is one spot, a short stretch, where it is at 21. So there have been significant improvements made to the driveway by the previous owner. My client has owned the property for less than a year and so the previous owner did significant improvements which I will point out – as I drop my board.

So the improvements include several elements one of which is on the driveway there are three very significant pull-out areas. What the fire department requires is 14 feet wide for driveway is acceptable and we have a 14-foot wide driveway. But when you have a longer driveway they want to make sure they have pull-out areas so in the event an emergency vehicle needs to access the property and people are exiting the property vehicles can pass one another. And so there are three significant areas which are easily depicted on the site plan but you can also see them here on the aerial. The previous owner actually worked with Mr. Gilmore from the County Fire Marshall's office to implement these improvements. To make the property as safe as possible recognizing we are in a somewhat remote mountainous terrain area. And in addition you can see right here these two little dots, these are two 10,000 gallon water storage tanks with their sort of by a draft hydrant that serve as a supplemental fire suppression system on the property.

As a condition of approval for this request the Fire Department is also requiring that the casitas be retrofitted with automatic fire suppression, sprinklers on the interior of the casitas. So interestingly, with the approval of this request, we are actually going to be improving and increasing the life safety measures that are already in place on the property.

So this is the site plan and you can see here this is the little existing workshop, these are the casitas, the driveway comes up, there is the first pull-out area, the second pull-out area for vehicle passing, here's the third and then there's a turnaround at the top of the driveway and again there are the storage tanks. I have a few photos for you to refer to. So the photos are numbered on the coversheet there so you can see at what point in the driveway the photo was taken and then the second batch of photos is of La Barbaria Trail itself. And La Barbaria Trail also is equipped with several pull-out areas to support vehicles passing one another where the roadway does narrow up somewhat because of the adjacent terrain.

And, also, as staff noted in their application, if this driveway was to be brought up to County standards we would be in here asking for variances to disturb 30 percent slopes, maybe to have retaining walls that exceed the maximum allowable height. I think it's important to recognize the environment we're in and this driveway is a very environmentally sensitive driveway that relates to its environment. So imagine that if we came in and said, Oh, we want it make it 20 feet wide and we want to make it 10 percent, I mean, just the level of disturbance and the loss of vegetation and the amount of scarring that would be implemented on this property would not be desirable by anyone.

So the key is that we have an existing driveway that was built under a different set of rules at the time. Significant improvements have been made and the key is when we talk about health safety and welfare what is in place here? I can tell you that this property has more fire protection measures than any other property in the vicinity in addition to the 20,000 gallons of water storage we will be retrofitting fire suppression in the casitas. So we are addressing those life safety concerns through those measures and we, again, all of these improvements were made in collaboration with the County Fire Marshall's department.

With respect to – as I mentioned we submitted a site development plan for Hearts Way Ranch to the Land Use Department which is a retreat use that is a permissible use within this rural fringe zoning district and I just want to touch on a little bit about the programmatic qualities of what is proposed. There has been a lot of misinformation floating around about what is proposed and Susan and Sherry have made a concerted effort, they have reached out to every single one of their neighbors in this community – been very transparent and very forthcoming about what they're proposing for the property. This is not a treatment center. This is a retreat for women who have already been through recovery treatment and need a place to develop better life skills before they return to their homes and their regular day-to-day life in order to ensure that they continue their healing and continue their recovery in a positive environment that they want to create here. Historically, the two casitas on the property were rented full time to full-time residents. And so— so basically, we have three dwellings on the property. Under typical traffic standards three dwellings would create 30 vehicle trips a day, back-and-forth, back-and-forth, back-and-forth, back-and-forth. So we're going from full-time residents in those casitas to part-time retreat guests that will not have vehicles. They will be guests on the property without vehicles. Any trips into town will be done as a group. So often any change of use is characterized as an intensification of use and I agree that in some instances that is the case but that is not the case here. It is actually, quite the opposite.

Santa Fe County Planning Division recommended approval of this application because of the negligible traffic impacts.

Lastly, there is a letter in the staff report from the Graeser McQueen law firm that we have a little bit of concern about because it represents that it is representing the wishes of the La Barbaria Trail Association. The reason that we are concerned about that is because my client has no knowledge of the La Barbaria Trail Association, its bylaws, its membership, its rules and regulations. We have no documentation as such that was available in her title search when she acquired the property and I have a letter that has been notarized that I have been asked to read in the record by Anna and Ken Spaeth who adjoin the subject property directly to the north and access their property via Camino Tortoga. So with your indulgence I would like to read that into the record and I have a copy for you as well.

HEARING OFFICER: I've got a copy of that.

MS. JENKIN: Is that the same one?

HEARING OFFICER: Yes.

MS. JENKINS: *Dear members of the Santa Fe County Planning Commission we, Anna and Ken Spaeth, own just over 20 acres contiguous to the north side of Susan Carter's property. We were surprised to learn that Chris Graeser and Catherine Joyce Coll were representing the La Barbaria Trail Road Association. We know there was a road maintenance agreement drafted in 1990 with an amendment in '93 but were unaware there were formal or legal association every established. We were never polled or asked if we were in favor or not of a proposed wellness treatment being established by our immediate neighbor. Because of this, we find it disingenuous that anyone is speaking on our behalf. With this in mind, we question what funds are being used to pay the legal fees to oppose the variances on behalf of the said association.*

We share the easement in question and support the variance application. We also support the driveway variance application due to the improvements made by the previous owners. Finally, as per Anna's previous letter submitted on July 21st we are in full support of the retreat being proposed by Sherry Scott and Susan Carter. Again, it is an enhancement to both our neighborhood and the Santa Fe community.

And, lastly we have 15 letters of support most of which I believe are in your packet along with 31 signatures on a petition. And in closing I would like to just touch on some of the elements of the intent of the Sustainable Growth Management Plan as well as the Sustainable Land Development Code. There is specific language about supporting local, small businesses especially ones that have low impact or supporting home-based businesses. In Section 3.1.1 of the SGMP it says, Need for appropriate business services and support for small business and home businesses. Small businesses are an important aspect to the local economy. Support, in Section 3.1.2., support and encourage local and small business.

This is the reason retreats are permissible anywhere in the County is because they are seen first as a quasi-residential use by the very nature of them. And we're dealing with properties that were built and existed prior to the adoption of the new code. I would find it challenging that there would be much of anything that can happen in Santa Fe County without some need for variance in accordance with the new more stringent code requirements. The key is, is the property properly suited and are there are appropriate measures in place to ensure the safety of the residents and the guests and I think we have demonstrated that there is.

With that, Susan Carter has a few words and then we would be happy to stand for questions and I would like to reserve the right for rebuttal prior to closing the hearing, thank you.

HEARING OFFICER: All right. I have a few questions that maybe you can answer first.

MS. JENKINS: Of course.

HEARING OFFICER: The casitas will have how many residents each?

MS. JENKINS: So the maximum they could have in them would be three each. There are two bedrooms. One of the bedrooms is a little larger. So the maximum could be three guests per casita. In our report we said four to six women at any given time could be residing in the casitas.

HEARING OFFICER: So they will not be utilizing the main house?

MS. JENKINS: No. The main house is – Susan and Sherry have a home office in the main house and so that's why we are creating the community room where the workshop is because that's where any – where the women gather together will primarily be happening in the workshop space that is being converted.

HEARING OFFICER: Will there be any other activities planned on the site other than the women that will be staying there? Will there be any day usage by others?

MS. JENKINS: No, no day usage by others, no.

HEARING OFFICER: And how about people come in to deliver any services? Yoga teachers, counselors, --

MS. JENKINS: Yeah, there could be – yeah, you know, this has really been this is our first step. So some of the programmatic elements are being developed but there may be an occasional yoga teacher or there may be an occasional art teacher. They may engage in – the residents themselves may engage in gardening on the property. You know some of these programmatic elements are being developed to support the intent of the program.

HEARING OFFICER: Okay. Let me ask you about the fire review comments that are in the staff report.

MS. JENKINS: Yes.

HEARING OFFICER: The first one says, Fire is requiring that roads shall meet the minimum County standards for fire apparatus access roads of a minimum 20 feet in width.

So that you can't –

MS. JENKINS: Hence the variance.

HEARING OFFICER: Now the second part of that says, Roads, turnouts and turnarounds shall be County approved and all-weather driving surface and un-obstructed vertical clearance of 13-feet 6-inches; are you able to provide that?

MS. JENKINS: Yes. Yeah, because we worked with the County on designing those turn outs and those turnouts do meet the Fire Marshall's standards and we don't have any vertical clearance issues.

HEARING OFFICER: And then the second one says that, the Driveway fire access shall not exceed 11 percent grade in slope and that you are exceeding but then the second part says shall have a minimum 28 foot inside radius on curves; do you have that?

MS. JENKINS: Most places. There are a couple of little spots, as part of the condition of approval that we will be widening out the turning radii in a couple of spots. We did several site visits with the Fire Marshall's department and identified a couple of areas where they felt the turns were a little snug so prior to finalizing the development plan and obtaining a business license there are a couple of spots where we will need to make some improvements on the turning radii.

HEARING OFFICER: You will increase that?

MS. JENKINS: Yes.

HEARING OFFICER: And then the third one is the entrance gate at the top of Sendero Del Corazon shall be set to open further; are you able to do that?

MS. JENKINS: Oh, yeah, the gate. There's just some vegetation behind the gate they just it to open a little wider, so yeah. That's not a problem.

HEARING OFFICER: Okay, and then the next one is installation of automatic fire protection sprinkler systems in Casitas A and B and you've done that.

MS. JENKINS: We haven't done that but that's a condition of approval

HEARING OFFICER: But you will. Okay.

MS. JENKINS: So those will be installed prior to issuance of any business license.

HEARING OFFICER: And then the fifth one, states that this development shall comply with all applicable regulations because of the area being rated Wildland Hazard area.

MS. JENKINS: Vegetation management, yes. So we'll be doing an inspection on the vegetation management prior to business license to determine if there's any thinning of vegetation that close to the structures. A fair amount of that was already done by the previous owner but we'll be doing an inspection with that particular staff person that implements those provisions and we will do a site visit with them to determine where we potentially need to thin some vegetation.

HEARING OFFICER: So that ties into the last one that it be a vegetation management plan.

MS. JENKINS: Exactly.

HEARING OFFICER: Okay. Let me see if there's anything else. Okay, that's all for now. Thank you.

MS. JENKINS: Thank you very much for your attention.

[Duly sworn, Susan Carter testified as follows]

SUSAN CARTER: I just briefly wanted to introduce myself and Sherry Scott, the applicants. Sherry, could you please stand up for just a second please. This is my business partner, Sherry Scott. I am Susan Carter. Sherry and I have known each other for 42 years. We met in college as sorority sisters at Texas Christian University. I just wanted to give you a little background on Sherry. She has been -- I'm going to introduce her first. She spent her life as a caregiver and public servant from early in her career risking her life as an RN, as a care-flight neonatal intensive care nurse, continuing her education to become a therapist and working with law enforcement and human service agencies. She has had an extensive career in managing cases of child abuse, family domestic violence, providing counseling and rehabilitation to sex offenders and victims of human trafficking. Sherry also managed to run the pediatric psychiatric division and center for pediatric eating disorders at Children's Medical Center in Dallas, one of the top pediatric hospitals in the country and the fifth largest health care provider in the nation.

Now, having a Ph.D. in family counseling and being a nurse practitioner in psychiatry, Sherry has chosen to dedicate her time working in the ER of the county's -- one of the counties, our county in Dallas serving the medically underserved. She also teaches those who want to become those that want to become a nurse practitioner and then she operates a private practice.

I have come from the world of non-profits. So I've had the privilege of being a founding employee of Susan G. Komen for the Cure, breast cancer organization. I ran -- I had the privilege of having a front row seat in the fight against breast cancer and ran all their marketing and branding for over 20 years. So we created the pink ribbon and that was kind of an amazing experience for me in addition to the Race for the Cure series.

Following that I served as the CEO of the Arthritis Foundation South Central Region and served the people in Texas, Oklahoma and New Mexico. I left that position in September of last year and I wanted to do what my friend does, Sherry, I wanted to be on the front lines and I wanted to be helping and I wanted to be hands-on. Thus we got together and we starting thinking what is the real need out there. We discovered through Sherry's work as a counselor that women who go through treatments have a real serious need for aftercare once they leave treatment in a sober living environment. There are very few facilities that exist where women can go to come home to themselves in a way that they never knew they could. You can take away the drink and you can take away the drunk but until you get to the heart of the issue of the problem and you really help those women learn what those issues they're going to continue numbing out. And so we want to bring women to a healing environment to a place that we feel women will feel safe and comfortable and be given the tools that they need so that when they go home they won't have that need to numb out and Santa Fe offers that for us.

We found this property on La Barbaria Trail on Sendero de la Corazon and we found this property. The owner as everyone has testified today has put in these amazing improvements to make this property incredibly safe and healing for his wife who happened to be suffering from severe rheumatoid arthritis and I think when he found out what I was doing with the Arthritis Foundation and then he heard what Sherry and I were planning to do he was very invested in helping us make this work. Once we found out that the zoning, you know, that this was going to be a zoning issue in December we, you know, put all the due diligence into looking at the property to make sure that it was going to go through way before we would ever consider buying the property. When we found out that the zoning did actually take place, the rezoning, and that it was, in fact, going to be a permitted use, we did decide to put a contract on the property. And it was a dream come true because the owner was able to convey all of the furnishings and everything to us in this amazing healing facility that we believe to be Hearts Way Ranch.

I am just beyond excited with the opportunity to be able to do it and I just hope that these variances don't come into play to block what we feel can be a lifesaving endeavor for a lot of women.

Just to give you a brief – again, reiterating what Jennifer said, it's a recovery residence. It's for four to six women who have come out of treatment they literally come to us to find, you know, a way to come home to themselves in a way they never knew they could. We are basing it on four spiritual tenets of the Zia Sun symbol. And those tenets are a strong body, a clear mind, a pure spirit and the dedication to the well-being of others. Which means they each have to have a service commitment in the community. So we will be making sure that those four elements are integrated into the daily schedule of each woman, you know, through our programs. And then reiterating what everybody said too, they will not have vehicles. They will be traveling to and from town as we do. And they will be with us at all times. And, again, the previous use of the property was for long-term tenants.

So you know, Hearing Officer Long, we hope that you will not let these variances stand in the way of the healing work that we hope to do on this amazing property in La Barbaria Canyon. We feel certain that we will not disturb or cause disturbances of any kind to our neighborhood. As a matter of fact, we hope to bring neighborhood collaboration as well as economic development and philanthropic service to not only the neighborhood but to the greater Santa Fe community.

Thank you so much for this opportunity.

HEARING OFFICER: Thank you. Let me ask you a couple of questions. It sounds like you've done a lot of homework and I'm sure analysis and studies not only from your

many years in these fields but maybe also specific to Santa Fe, how long will the women be staying, the four to six women?

MS. CARTER: It's all based on what their clinician, that they're be treating, you know, who refers them to us and their clinician's conversation that they'll have with Dr. Scott, Sherry Scott. And they will have that conversation and as that woman heals, you know, that will just be determined. I mean sometimes it could be 30, 60, 90 days sometimes even more.

HEARING OFFICER: And do you expect to draw from the Santa Fe area, the northern New Mexico area or is it broader than that?

MS. CARTER: It is broader than that. It would be – it really truly is referrals from probably treatment centers. Treatment facilities that are looking for the types of facility that we have. Also given the type of personnel that we have with Sherry's background being a nurse practitioner in psychiatry is something very unique to a somber living house when you've got women you might, you know, need medical oversight as well. So, you know, that's a real benefit in our place and not to mention that Santa Fe in and of itself has such a – offers such a healing environment and so many amazing practitioners in this area.

HEARING OFFICER: Thank you, it was good to hear that presentation.

MS. CARTER: Thank you.

MS. JENKINS: So that concludes our presentation. I did one to point out one thing that I overlooked previously and then I will sit down.

So as you can see here, you see little stickers, those – this as outlined in green here as I pointed out before is the subject property, and the stickers indicate residents who wrote letters of support. So as you can see very contiguous letters wrote letters of support for the application. That was the purpose of the stickers so I just wanted to point that out.

HEARING OFFICER: Thank you. All right we will proceed with the public hearing by asking if there is anyone here who would like to speak in support of the application for variance. I know that we had the letters and the petitions as well that have been received in the record but there is a gentleman here. Would you come forward, please, sir. And please state your name and address for us and then whether you've been sworn in.

KENNETH ROWLEY: -- Rowley, 38 Camino Tortuga, Santa Fe, New Mexico, 87505.

[Duly sworn, Kenneth Rowley, testified as follows]

MR. ROWLEY: I'm a little hard of hearing and I'm going to have to talk loud so feel like I'm yelling at you –

HEARING OFFICER: That's fine.

MR. ROWLEY: -- but I want all of the people to hear what I have to say. I think it is a very, very important thing for us to consider and so I'm directing this to you and I am also directing it to my neighbors. Something has happened here that probably shouldn't have. Anyway, this is a story of what is happening in our backyard. Why, such efforts to avoid a good thing happening. I'm Ken Rowley. I'm a retired gynecologic oncologist. I have lived in Santa Fe County 24 years. I live besides Susan Carter and Sherry Scott. The work I did as an oncologist was to take care of very ill women patients with cancer. These women were so sick they spent most of their times in hospitals and doctors' offices. So involved with their illness they became lost from their lives and the world they live in.

Now after therapy and with remission or cure, they had many different feelings: guilt, unworthiness, inadequacy, lost of self respect, unable to meet the world, the list could go on and on. And for those who have cared for cancer patients know what I mean. Now many of these

feelings the cancer survivors go through are very similar to the addict who survives another life threatened disease. They have been through therapy and now they need our help. Yes, we are our brothers' keepers. Yes, we help them to forgive themselves for being an addict. Yes, help them reconnect with society. Yes, help them not to fear but to love. Yes, help them to realize they are one of the creator's, one with the creator and daughters of the creator. If you were to know Susan and Sherry as I know them this is their mission. There are many other problems these women have and most of these are known to both Susan and Sherry because too they have suffered the misadventure of addiction. Maybe that is why they are so driven to help their crippled sister.

For any e who continues to be against this divine venture I recommend go out into our wonderful forest, sit on a log, be very quiet, and ask yourself why? I personally feel that the mission of these two women is wonderful and they were attracted to do it here in La Barbaria Canyon on sacred land a sacred endeavor. It was no mistake.

I would never want my grandchildren, all 13 of them, to know I was an obstruction to something I believe is god's will. This home for six or fewer women is not a place of active treatment for substance abuse. It's a place so beautiful and peaceful, just two blocks down from heaven where the activities are not drug therapy. People are mistaken. They think it's that. But it is how to recover the soul.

But we do have a problem right here on La Barbaria Trail if you already living here speed up and down the road, brains saturated and bellies filled with alcohol they don't see anything wrong with that. Yet there are some of the people against Sherry and Susan influencing certain neighbors; why it is misinformation. I've read some of these letters and I know. Susan and Sherry two wonderful people. Not treating disease but helping women in small numbers, only four to six people at a time find their way back after a soul wrenching experience just three little variances to combine the use of a private road, the best maintained road in La Barbaria Canyon, that in 20 years of existence has never had an accident. Many times I've driven or walked that road in snow, rain, sunshine and never had any difficulty. A road that has very little vehicular traffic and will have less since the two other casitas will not be rented, only occupied by women who don't have cars.

Ma'am, I ask that you recommend these three variances knowing much good will come from it.

This whole La Barbaria episode reminds me of a story about the man called Jesus and how it applies to Susan and Sherry. First, the people did not understand Jesus' message and what he was about. Sounds a little familiar doesn't it? Fearing what he was doing – fear, fear that's the worst thing and our fear turns into hate. Hated that fearing that what he was doing and they hated and they hanged him on a cross. Hopefully, we people of the 21st century can do better. Let's not make the same mistake. Let us feel honored and proud that we can be helpful as Susan and Sherry usher in – it's a new paradigm. This is all new stuff and this is important stuff because this may be a way in which to help recovering people or those who have swayed to return and recover their souls.

So what I said in this little ditty: If you don't understand, Oh what a pity. Maybe you'd be happier living in the City.

Thank you very much and I hope I've given a little different slant to it and it will help some people to stop and think why all of this crap. I don't believe the variances are – we're bringing on situations to try and stop a paradigm that will be very important to this whole country.

HEARING OFFICER: Thank you. Thank you for your comments.

MR. ROWLEY: Thank you.

HEARING OFFICER: All right is there anyone here who would like to speak in opposition to the – you're in support? Okay so everyone who wants to speak in support why don't you stand and you all can be sworn in. All right come on forward.

[Duly sworn, Roger Said, testified as follows]

ROGER SAID: My name is Roger Said and I live at 3005 Monte Sereno Drive, here in Santa Fe. And some four years ago my family and I chose to move from the flat land in Texas and the prairie to Santa Fe partially for the mountainous beauty but also I think everyone here has spoke to today at some level to the healing quality of Santa Fe and I just wanted to make two quick points and then I'll move on.

One is that I have traveled the road both the public La Barbaria Road as well as the private La Barbaria Trail on several occasions in two-wheel drive vehicles and found no issues with maneuvering to drive safely. And this is also coming from somewhat who also didn't drive the mountains very frequently. I was very comfortable with it and found it to be very well maintained and I also know that they have contracted with a snow plow provider that on snowy days that there is automatic service of the road for the snow issues. I don't really see a safety issue from that perspective.

We built a house in Santa Fe when we moved some four years ago, and this was my introduction in building in extreme elevations and steep climbs and I learned a lot. And I also had to go through a variance with the traffic department and also with the Santa Fe Fire Department to meet the codes and I learned quite a bit about that including installing sprinkler systems to meet a variance for the same purpose. I had a steeper incline that required some accommodation and we installed fire suppressant sprinklers and made some other adjustments working with Fire Chief Gonzales and I think that where there's a need there is a way to work out differences.

In terms of a need, I've known Susan Carter for over 40 years and can speak to her high integrity, her volunteerism and her sincere intent. And I've known Sherry Scott for 25 years and know of her professional background. It would be – if Santa Fe wanted this type of facility they would have trouble recruiting this type of talent to conduct what they're doing and I can say without reservation they're doing it for the right reasons. And, finally, I would like to say that if this is a healing city, a healing environment, then this is the type of environment that you want to create. Thank you.

HEARING OFFICER: Thank you. All right, come forward.

[Duly sworn, Ann Reese, testified as follows]

ANN REESE: My name is Ann Reese and I live at 3005 Monte Sereno Drive, Santa Fe, 87506. And I moved her with my husband who had just spoke a minute ago three or four back from Dallas. And I wanted to say that because it gave me the great good fortune and opportunity to know Susan Carter who I have known for over 40 years as we grew up together and went to high school together. I'm a marriage and family therapist and a licensed clinical social worker from Dallas. I ran a family therapy program for a very large private non-private and through that work came to know Sherry Scott who I've known over 20 years and I can speak her unbelievable expertise and the regard the community has for Sherry is indescribable. She is a skilled and gifted clinician with a wide variety of clinical skills so knowing Sherry's clinical expertise and Susan's development and non-profit expertise and working from the heart I give them my highest, highest endorsement and know that they will be an incredible asset to the community as well as to the country. As a therapist I often had difficulty finding after treatment programs, retreat centers for women to continue their recovery. So again, my highest endorsement, Thank you.

HEARING OFFICER: Thank you. Okay, I thought I saw some other hands. You can come forward, ma'am.

GORDON HARRIS: Hi there. Gordon Harris. I live at 191 Overlook Road, Santa Fe, New Mexico 87505 and I have not been sworn.

[Duly sworn, Gordon Harris, testified as follows]

MR. HARRIS: William Gordon Harris. I've lived in the neighborhood, sort of La Barbaria Canyon neighborhood since 1997. I'm very familiar with a lot of the houses there, the residents, they are my neighbors and the road systems there as they interconnect and as we all drive them. In addition, I am a volunteer for La Canada Wireless Association. We are a 501 (c) 12 non-profit, volunteer-run internet service provider. We provide internet services for underserved rural portions of the County of which La Barbaria Canyon is one. Most of the folks you are both for and against the applicant on this issue actually have internet service by virtue of the fact that I've volunteered and climbed on their roofs and set up internet service for them.

This experience doing this volunteer work has give me an appreciation for the road systems there and I can tell you that from my personal perspective as a neighbor, La Barbaria trail and Tortoga and the driveway going to Susan and Sherry's property is actually the envy of many of the other residents that live in adjacent homeowner associations including my own, the Overlook Homeowners Association. The road is actually in very good shape and having driven it quite a bit I feel that I am in a position to attest to that.

Additionally, even though I am not an adjacent neighbor, I am close enough that I can actually see all of the buildings on Sherry and Susan's property from my deck. So I'm close enough to that. In my interactions with Susan helping her get the internet at her property I was very, very favorably impressed by her integrity and her thoughtfulness. And to that extent, as a neighbor I have no qualms whatsoever running the sort of enterprise that she's proposing to run there, and, in fact, I feel a certain amount of pride that she has chosen our area in which to connect this enterprise and to offer this help. So, I am unequivocally in favor of this applicant's petition.

HEARING OFFICER: Thank you. Okay, ma'am.

[Duly sworn, Sandra Rowley. Testified as follows]

SANDRA ROWLEY: I'm Sandra Rowley and I live at 38 Camino Tortoga and have lived there for 19 years and our property – I'm the wife of Ken Rowley – our property does border on Susan and Sherry's property. So we are neighbors. And I have known Susan since she moved in in January and she's been a wonderful, wonderful neighbor. And I just wanted to say that I read a letter in opposition in their variances and their coming there. And I know that the people that wrote this letter live in our neighborhood are new members of the road association and they don't even know Susan. They have never been up the road. They've never been to her house. They don't know anything about her and so therefore some of the things that they say are misinformation that they have received. They have received misinformation. And, I was – Catherin Coll who is now the chairman of the association she did for many years it was a co-chairman and we had a man that was the co-chair and now both of those people have left. And they were always in charge of the road maintenance. And, no, I was – I was – Catherine Coll called me a few months ago and wanted to know if I knew what they were going to do with their property, my neighbor, and I said, yes, I certainly did and I support it. I welcome it and I will do anything I can to help them. I think it is a very good thing for our neighborhood and she quickly said, Oh, okay, goodbye. So I'm not represented by attorney Graeser and Catherine Coll and the road commission. I have not paid my dues for two years and the reason I have not is because they don't – Catherine Coll since she doesn't have the co-chairman anymore, the man, we just cut

down trees. There's a great fear in our neighborhood of fire so we have fire remediation and that's where our money goes and we have plenty of money to keep up our road and have but now we're cutting down trees and it's all going – not all, but most of it is going to fire mitigation. So, I'm not paying for that. This is not what – this is not why our association was formed for. We're a road maintenance neighborhood association to keep our road up. So if we want to have it go fire mitigation then maybe another association should be formed. So I pay the man who is in charge of keeping up the road who is also a member of the association.

The other thing is that just some of the things are just misinformation and I feel really bad about it and I know where it comes from and I just want to in my closing remarks say a few things that there's misinformation. This man and one don't even know Sherry. I don't even know who they are. We don't have meetings anymore. It's – the owners of Hearts Way Ranch do not even pay for the maintaining of La Barbaria Road they only moved her January. We haven't had any maintenance this year at all. The other thing, some of the words they used are just misinformation and it just makes me really sad because we're a wonderful community and I don't like to see us split with each other over things like this. This person calls their venture an inappropriate commercial use, commercial venture, an alcohol treatment facility, a sober wellness retreat, which is irrelevant to the variance. While I think what Sherry and Susan are going to do is not irrelevant to what the variance I think it should be approved. Proposed rehab they call it. Furthermore, this is a dangerous attempt by applicants to cloak themselves and their proposed facility in an altruistic endeavor to benefit society – a commercial venture, proposed clinic, this is not a charitable institution, and you should not be swayed by the applicants' characterization of their business of as being somehow for the benefit of mankind and not for the benefit of their own pocketbook in order to make it – you know we don't know, we don't know the motivations of any other person. We don't know their heart. This person seems to – doesn't even know them, know what all of their motivations are. I mean I've been married to my husband and it will be 60 years in March of next year, I don't know his heart.

HEARING OFFICER: Ma'am, are you reading from one of the letters in the packet?

MS. ROWLEY: Yes.

HEARING OFFICER: Okay, so I've got that. You don't need to read it.

MS. ROWLEY: Yes, all right. You've got that. So then I want to speak to the increase in the road. I think we made the point that it is not going to increase traffic on our road and I want to say that I have lived her 19 years and I've lived there with the casitas being there and rented out and the last person who rented out one of the casitas it was like she had all of her relatives, her family, everybody visited to her because they wanted to visit Santa Fe. We had so much traffic we were like downtown Santa Fe because she was like a hotel for all of her family. We had a lot of traffic and the other person that rented the casita was very quiet and had a job here and worked a lot.

The other point I wanted to make is that, the applicants are far from acting in good faith; they are acting in good faith. Nothing has been spoken to today but when – I just want to say that I am not – Mr. Graeser and Catherine Coll are not representing me and they are not representing the La Barbaria Trail Association because, as they say they are, because there are many of us who are members and neighbors who do not – who do support this variance.

HEARING OFFICER: Okay, thank you, ma'am.

MS. ROWLEY: Oh, may I say one other thing?

HEARING OFFICER: Yes.

MS. ROWLEY: I just want to say something about the natural. It's very beautiful out there and it's very mountainous and nature is very meaningful to me and I just wanted to quote something that Albert Einstein said, Look deep into the eyes of nature and everything will make sense.

HEARING OFFICER: Thank you, ma'am.

[Duly sworn, Jain Lemos, testified as follows]

JAIN LEMOS: My name is Jain Lemos, and, yes, I was sworn in with the group. And I just wanted to say that my address is 40 Craftsman Road, here in Santa Fe. I've been working with Susan and Sherry over the past six months and going up to the property on a weekly if not daily basis during that time so I've seen the roads in quite a few different weather conditions. The roads are just beautiful there and within Susan's property the roads are beautifully maintained and I know that she is putting in a lot of her own resources to make sure that the trees are always trimmed, brushes always cleared – I mean, there are landscapers that take care of it. It's really a beautiful road. I've never had any problem trying to pass someone. I think maybe once somebody had to maybe back up at some stretch on the road but it's really a very lovely property.

I understand, having lived in areas where there is earthquake and fire danger in California and it is important that the Fire Department can get out there but I think as everybody has pointed out here, especially their team here, we're doing everything that we possibly can to make sure that all of that is mitigated with all the steps that need to be taken and we really want to make sure that everything is done so that life saving is the number one priority there. That's really key.

Also, I just want to point out that the property was advertised as a family compound and these casitas are 16 square foot casitas each so even though there is two bedrooms and only three beds in each one as Susan and Sherry have configured it for their retreat, any other people who just bought it as private citizens and not to run it as a business could have had quite a few people there, I mean I think easily, 12 to 14 adults could live on that property and let's say each one of them had a car and each one of them drove to work each day, each one of them had friends visiting – I mean, you could have so much traffic on that road without it ever having to be a business.

I think it was zoned for this type of usage, in fact, other zoning allowed could be a skating rink or a movie ranch and could you imagine if somebody was trying to put a movie ranch in that location. You know, it would just be outrageous in terms of the traffic and impact on the road. This is very very low impact and I think you know so somebody built the road why back when a little too steep, it's kind of a mystery as to why that was ever granted. Maybe it was old rules but the pitch is steep in a couple of places but I think a variance could easily be granted to given the circumstances. Thank you very much.

HEARING OFFICER: Okay, thank you.

[Duly sworn, Liz Sheffield, testified as follows]

LIZ SHEFFIELD: My name is Liz Sheffield and I live here in Santa Fe, 17 Camino Delilah. I had the privilege working with Sherry and Susan in finding the perfect place for their somber living environment and I've never met two people that have such ultimate and intense respect for.

I'm a real estate agent and I've been on every road in the city and county and that's a fantastic road and I also want to speak of my person experience with the nature of alcoholism. My partner was an alcoholic and – she went to rehab and they wanted to her to go to a place like this and there was no place to go. They wanted her to reinvent herself. To be around sobriety and

support and she ended up coming back home here in Santa Fe and -- so I know personally that a thing like this could help people. She died --

HEARING OFFICER: I'm so sorry.

MS. SHEFFIELD: -- because of a lack of support. And I just can't say how much something like this would mean to me and other people who have gone through this experience.

HEARING OFFICER: Thank you. Thank you for sharing that.

MS. SHEFFIELD: Thank you.

HEARING OFFICER: Okay, who do we have here today who would like to speak against this application? Mr. Graeser, okay, why don't you come forward first. I assume you may be speaking for some others that are here today, but they can let me know that.

CHRISTOPHER GRAESER: Thank you, Hearing Officer Long. Christopher Graeser, 316 East Marcy. I'm speaking on behalf of the La Barbaria Trail Association, which is an incorporated association through the direction of its chairperson, Catherine Joyce Coll.

I don't know Susan Carter. I don't know Sherry Scott. I don't know the work they do. It sounds beneficial. It sounds needed. That is not why we are here. We're here to discuss La Barbaria Trail, Camino Tortoga Sendero de Corazon and code requirements.

The roads don't meet current road standards. The lots of there would never be allowed to be platted now. You wouldn't be allowed to build those roads now. Jennifer mentioned that La Barbaria Trail in particular should be seen as a legal non-conforming use. I can see that analogy, of course, it is black-letter land-use law that legal non-conforming use are discouraged and they shouldn't be expanded. And here the expansion is, moving this property from a residential use to a non-residential use. There are a lot of people that live up there now and they deal with the roads but we don't need to make them worse.

Let me talk about some specifics. The first one is notice. The requirement of the code is that the notice be visible from a public road and the posted notice was not. It was posted on the property visible perhaps from Camino Tortoga but from the nearest public road which is La Barbaria Road. So it did not meet notice requirements from that perspective.

The second deficiency in the notice is that the notice board, it's in your packet at NBA 45, describes two variances. The request is for three variances. The third one being a variance for the road standards. That is not listed on the notice board. So it doesn't meet the notice requirements.

Madam Hearing Officer, I have submitted I have submitted a detailed letter. I know that you have read it. I don't want to belabor it. I want to hit the high points because they are important. The purpose of the road standards is to "provide for the safety for both vehicles and pedestrian traffic." They quote from the Sustainable Land Development Code. And this is not old law. This is adopted within the last year. This isn't simply a series of dimensional variances such as increased height, diminished setbacks, things are typically more aesthetic. These are variances from safety criteria which should be given the utmost scrutiny.

I go through the legal requirements for granting a variance. I know that the public interest here is particularly compelling given the fire danger exacerbated by current inadequate emergency vehicle access. And the requirement for you to grant a variance is to find that this is in the public interest and diminishing safety certainly is not. The applicant's variance letter focuses almost entirely on the driveway variances not addressing the other variances. I don't think you can make a determination if you don't know what you're giving a variance to. Is the variance to the slope, the first variance, the first slope variance; is it de minimis? Is it significant? What are the slopes that are out there now versus what is required? You're simply not given that information in the packet.

The more problematic criteria for the applicant is unnecessary hardship. This is a term of art. It is defined in New Mexico case law and a primary focus is whether this parcel is distinguishable from other properties subject to the same zoning restrictions. And test, this comes from Powell quoted in the Downtown Neighborhood's case, the test is whether because of the differences the owner will be deprived of a reasonable return on his or her property under any use permitted by the existing zoning classification. The answer is a resounding no, Madam Hearing Officer. First of all there's no differences. There's no testimony there's any differences. In fact, I take that back, there was testimony there's differences today and what that testimony was is how nice the onsite driveway roads are versus other roads in the vicinity and that goes in the very wrong direction to grant the variance. The only difference is this property is closer to conforming. That certainly doesn't render it subject to unique circumstances under any use permitted by the existing zoning classification. That use includes residential which is the current use, historic use, the use the property was listed for sale for, it's the use that was the current use when the decision to pay for the property – what the applicants paid for it was made, and it continues to be the appropriate and reasonable use. There is no interference with reasonable use of the property. There is no interference with obtaining a reasonable return from the property having bought it as a residence and continuing to be able to use it as a residence.

The owner testified that they did all their due diligence but I'm sorry that simply is not true. The requirement, the 10 percent road requirement is from County code. The 11 percent road requirement is from the 1997 Uniform Fire Code, it's been around for 20 years, the 20 foot width, the 11 percent grade, 1997 Uniform Fire Code has always applied and it clearly applies in the County. And it was represented from the Fire Department here who will confirm that requirement applies to Camino Tortoga, La Barbaria Trail, and to Sendero de Corazon. So due diligence was not done. Simply assuming because it is allowed by the zoning classification like the ice rinks and whatever else was talked about doesn't get you past the hurdle of all the other requirements in the code particularly safety requirements for access.

The application letter, my response letter addresses the first two variances and they have subsequently added a third variance. The code requirement is a 20 foot road on a 50 foot right of way. What we have now on La Barbaria Trail is a 20-foot right of way with a road as narrow as 9 feet, this is in the staff report. As narrow as 9 feet, nowhere greater than 18 feet.

I've submitted a letter from the prior captain of the Fire Department explaining the problem with the narrow width is then not only can fire trucks not pass out there but people trying to get out away from a fire create a bottleneck that fire trucks can't get in and this area is in an extreme fire danger area.

HEARING OFFICER: Are you saying the third variance that your letter doesn't address that was added is the width of the road?

MR. GRAESER: Correct. Width of the road and width of the right-of-way. The requirement is a 20 foot road on a 50 foot right-of-way with no more than 11 percent grade – sorry, 11 percent on the Fire Code and 10 percent on the County Code. And those requirements are not met significantly on a road that goes down as low as 9 feet.

So you got a lot of letters, you got a petition, you got testimony from folks and I think two things impress me about those letters and testimony. One is how passionate they are for the work that Ms. Carter and Ms. Scott do. The second is how irrelevant their testimony was to granting a variance to fire code and county code restrictions. It's worth noting that there were only three people in all of that comment who live in the area and will be subject to this on a daily basis. The

rest are people interested for one reason or another be they high school friends, church friends, college friends, etcetera.

And, of course, Hearing Officer, we are not opposed to the work being done. It seems like a needed service to – I won't go there as far as some of the comments, the biblical references, but we are absolutely not opposed to this work. The problem is doing this work in this location violates County code and it violates safety standards.

Addressing a couple of the comments that were made: Ms. Jenkins said it was important to recognize the environment we are in. As you'll see by Mr. Chilton's letter from the fire department, the environment we're in is extreme fire danger environment. There's a lot of discussion about how the impact is going to be less than what it was residential. There's no traffic analysis for us to know that and I've suggested that it is required by County code but one hasn't been submitted. Ms. Jenkins said the analysis for you is the property suited for this use and I will submit that is not the analysis. The analysis is the Code and case law required variance analysis with which I know that you're familiar.

The variances aren't blocking lifesavings endeavors. What's blocking that is deciding to engage in this business in an area that the Code doesn't allow you to engage in it. And I'll take issue with the comment that you need a variance to do this anywhere in the County. That's clearly not the case.

I think that's most of what I have to address. I do encourage you to confirm with the representative of the Fire Department that the slope width requirements do apply throughout the access roads there and there are numerous instances in which they don't. Like I said, the entirety of La Barbaria Trail violates the 20 foot requirements. If you look at the plans and profiles that are in your packet for the driveway and see how many of those are above 10 percent and how much length is above 10 percent, it's a significant portion. It looks to me over half going up in the twenties, double the allowable slope.

The roads don't meet the standards. They can't be improved without getting a variance to improve them. We ask that you leave a bad situation as is and don't allow it to be exacerbated. Support staff recommendation. Support the Fire Department recommendation. There has been nothing in the testimony today that addresses the continuing lack of evidence in the record supporting the variances. Thank you.

HEARING OFFICER: Okay, thank you. Let me ask you about the association because we've heard some dissention from people in the area who are ostensibly members of that association. How did the association arrive at its position against the granting of the variances? Was there a member meeting called? Did the board vote on it and how many members are on the board?

MR. GRAESER: I don't know the answer to that. Ms. Joyce-Cull can probably address that but I think it would be unusual to define an association that everyone agrees.

HEARING OFFICER: Okay, thank you. Okay, ma'am.

CATHERINE JOYCE COLL: I'm Catherine Joy Coll and I have been the neighborhood chairman for probably a little over 10 years. The neighbors – and I'll just try and cover a few little things that came up very quickly.

HEARING OFFICER: Ma'am, would you please give us your address.

MS. COLL: 83 La Barbaria Trail.

HEARING OFFICER: All right and have you been sworn in?

MS. COLL: No.

HEARING OFFICER: Okay, let's do that.

[Duly sworn, Catherine Joyce Coll, testified as follows]

MS. COLL: The neighborhood association was founded before Tortoga Road was actually developed. So now of the people there are legal members of the association. I think there are 18 association members. You have a letter that I wrote on behalf of the association. Some of it is open land, four pieces are just raw land including the piece, the space here and I want to address that next, presumably owned.

So the Road Association, I took a telephone poll which is the way we do many things to vote on this and the vote was unanimous to oppose it with the exception of Ken and Sandra Rowley who spoke in favor today and one other couple that live below the Sheltons. Jay voted to protest it and then met Susan and came over to my house and said I don't want to upset anybody, I'm not going to take a position and he did write a that is in your packet and he ended his letter by saying, if it's illegal to put it there then it shouldn't be there and if it's legal I guess I support it and then they promptly left town. So Jay just wants to get along with everybody and he and Katherine always have.

So that's how we came by this. Now, I think someone, Sandra or someone suggested that the road association money was going to pay our lawyer, Chris, who is my lawyer and also the association's lawyer and that is untrue. The neighbors have been contributing \$250 lumps which so far have covered all of our legal fees. We can by law use association money but we haven't had to do that and we fought another development several years ago and won and the neighborhood paid all of those legal fees also. We have never touched association money.

Now as far as the Tortuga people go, they were up there before my husband and I bought our house but they had always paid road dues and Sandra, you're wrong, you did pay last year.

[Speaking from the audience Ms. Rowley stated that she did not.]

MS. COLL: Yeah, you did.

HEARING OFFICER: Ma'am, let's not get into a dialogue with the audience. Ma'am, please, please let her speak.

MS. COLL: That property has been problematic for the owners for some time. The Starkes owned it and they did a lot of road work and Rick was retired and enjoying and he had a lot of heavy equipment up there and we became good friends with them. So I asked him if he'd like to be co-chairman and supervise the road work and I would do everything else, the newsletters, the banking, the fire mitigation and that is the way that we did it. And then they sold the house to the Loftons and Rick called me and said that the new owners, he thought, would be happy to help with the road stuff because Craig said he was going to do a lot of driveway work and have heavy equipment up there. So I called Craig and he agreed to. So for three years they handled the road grading. And the Rowleys are always difficult to get dues from and so I had asked Rick when he was co-chairman to call them and get their check which he did and after Craig [sic] did I asked Craig to call and get it which he did. So that is how that evolved. I have been the road chairman through the whole thing. I have actually tried to get rid of three times and nobody else seems to want it. At the moment, Cathy Deuschle, the new owners of 7 Owl Creek that wrote a letter that you have, Cathy has agreed to be co-chairman and help with whatever comes up. So, I have Cathy's help.

Now as far as this letter from the Spaeths goes, I've never heard of these people and I think neither has anyone else in the neighborhood. They own a parcel adjacent to the Rowleys and Sandra told me four or five years ago that it came up for sale and they bought it. And she told me they bought it with difficulty but now they had 27 acres. So that was the last I heard. That woman

has never paid dues. There's no building of any kind on that property. They live in Colorado. They have nothing to do with anything here except that they're relatives of the Rowleys.

So that's all of that now as far as fire goes, we've had meetings with the last five fire chiefs on fire mitigation and the problems and all five of our past fire chiefs have told the whole neighborhood association that it is quite likely that in case of a catastrophic fire, fire trucks will not be able to get up our road. In fact, I gave Jose and Chris has a copy of the letter that Chief Chilton wrote and then the current chief whose name I've forgotten for the moment wrote a letter confirming that everything Chief Chilton wrote was right. This is Hondo Fire Department. And right now their protocol says if a wildland fire starts in La Barbaria Canyon then the trucks are to go to the end of the pavement which is 1.25 miles in on La Barbaria Road and they are not to go further unless they feel it is safe and exercising due caution. Now, all five of those chiefs have told us that it is highly unlikely that a truck will be able to get up La Barbaria Trail. There has been two fires there and what they did was park a water truck at the foot of the road, one was lightning and one was ashes, at the foot of the road and they got those pickup size trucks and hauled water up. Now I know they have tanks at the Sendero property the problem being you have to hook a fire hose to those tanks. They do have a hose nozzle thing on them but that won't make enough water to stop anything but maybe a small yard fire. Unless you can get a truck up there you don't have giant nozzles to actually put out a fire. So it was fine to put all of that in but it's not going to help if there's a fire and the trucks can't get up. We've been told that we'll have to shelter in place up there and you're more than welcome to call the fire chief and verify all of this. I'm not only not exaggerated it, I'm understating it. We all know we can die up there and we've all laid awake worrying about it.

I think that what Susan and her partner are trying to do is worthy and no one in the neighborhood has questioned the worthiness of this project. What we're questioning is its appropriateness to a wildland area with a narrow road, wild life all over the place, the road is not well maintained – oh, Sandra brought up what we do with the road. This year, four people haven't paid dues yet and every year the road grading is done in the fall after the monsoons which wash out big gullies and there are huge gullies this year. We will be plowing it as always in the fall and then the fire mitigation we haven't started yet. We divide up the dues that come in. Half for fire mitigation and half for road work. Our firefighters who always do our fire mitigation and are wonderful have been in California all summer fighting wildland fires there. So they will be back. They prefer doing it in cool weather because the sparks from the chainsaws can set off fires in the summertime. So the cooler the weather and the higher the humidity the safer the fire mitigation is. So the road gets dealt with and so does the fire mitigation. And I think, I think that was all I have. Is there anything else?

HEARING OFFICER: No other questions, thank you.

MS. COLL: Thank you.

HEARING OFFICER: Okay, who else wanted to speak? You, sir, over here and I think there is one other.

[Duly sworn, Richard Bank, testified as follows]

RICHARD BANK: Richard Bank, 6 Owl Creek Road, Santa Fe. Our property, I believe part of our property is adjacent to the property in question if it's not adjacent it's very very close.

I have no problem nor does my wife with the work that the two women are proposing to do but we also think that it is inappropriate for the location that they want to do that work. And so I

don't want to say anything negative about what they want to do but I do sort of want to object to the process that we're going through here in some ways.

We're here because a residential something that was designed to be residential is being transformed or converted to something commercial and it is for that reason that these variances are being requested. There must be probably other variances or exceptions that are going to have to be made when you transform a residential structure to a commercial structure. I'm thinking – I built my own house so I am familiar with this. I should also note for the record that we've lived in our place which we built ourselves with our own hands for 30 years. So we are the second longest tenured residents of La Barbaria Canyon. We've been there a long time. And I'm familiar with all the codes and all of the stuff that I had to do to build my own house. Electrical codes are much more strict for commercial structures. Plumbing codes, waste codes, kitchen codes when you're serving food to people who aren't owners or tenants. So what I would like to see is all of these issues brought together at one time so that the extent, the total extent of the exceptions being made if they are to be made are known.

HEARING OFFICER: Sir, I don't believe there are any other variances or exceptions that County staff has identified other than these road and driveway variances.

MR. BANKS: Well, there has already been mention of the fire stuff and you're assuming that has been –

HEARING OFFICER: That's part of the variances for the roads and driveway.

MR. BANKS: Okay, well, okay, that part of my stuff, I guess, can go away. I would like to address the issue of fire as well. When you have full time residents as either owners or tenants they are typically familiar with where they are living and know the dangers and have – and that knowledge becomes second nature to behavior. Ken Rowley said what we should all do who are opposed to this development is go sit on a log and thing. Well, what flashed through my head that someone staying on this, in this treatment facility or retreat facility is going to do that. They're going to walk out into the forest which is adjacent to this property and they're going to sit on a log and they're going to take out a cigarette and we're all going to die. And this person is from Vermont and if they're from Vermont and they go out in the forest and they spoke a cigarette and they throw it, they don't have to worry about a fire but someone who has only been in Santa Fe for let's say a week who is staying at a facility and goes out and smokes a cigarette or a group of them go out and decide to sing around the campfire, we are all in trouble. So, so, our concern is not with traffic, not with the numbers of people but with the kind of people, people who will not know the area that they're in. And, and, I don't know what you can do about that. You can try and educate people when they come but habits are hard to break and if someone is a smoker, they are going to smoke. And if you smoke in that neighborhood in the summer time you're endangering everybody in the canyon and beyond.

The other thing that disturbed me about the testimony of the representative for the applicants was that she said a couple of things that are just not true. One, she said that the grades on La Barbaria Trail are gentle. The lawyer who spoke against the proposal said that's not true. But I can confirm that because I rolled my truck on the big hill on La Barbaria Trail in the winter; an icy road, my truck stalled, it took off like a sled and I had a choice of going over the edge or up the hillside and the truck rolled. The next guy down hit me. So I know that that's a steep grade. If you try and ride a mountain bike up that road it flips over. It is very very steep. We call it the big hill and we call it the big hill for a reason. So there's that.

The second thing she said that was simply not true was that Susan and Sherry have reached out to all the neighbors. They haven't reached out to us. All of our information came from

conversations with I had with Jay Shelton who is another of our neighbors. But we've been there, as I said, for 30 years and they didn't reach out to us but she said they reached out to everyone of the neighbors.

I think that is probably all I need to say. Everything else that I wanted to say has been said. Thank you.

HEARING OFFICER: Thank you. I think there was one more speaker here.

[Duly sworn, Dennis Lopez, testified as follows]

DENNIS LOPEZ: Dennis Lopez, 26 Camino Tortuga. I'm not much of a speaker and pretty much everything I had to say has been said. But I know they're not hitting any water issues or anything else. That hill he was talking about, every year I see two people in the ditch. You can drive by and look at the cable box it's always laying down. Somebody is always hitting that and that doesn't even have to have snow or ice, just wet you can start sliding down that thing and not make that turn.

The property has been in family originally for about 80 years. I have one lot out of it at 11.5 acres. I live next to the Rowleys and I built between the Rowleys and the Tuckman property which is now Susan's property. I'm not quite sure how them managed to get two casitas in the house there because I haven't been able to build a guest house there – the water restrictions up there. How they got those variances, I don't know. But all I know if you put 10 or 12 people in that place pretty soon the well is going to run dry. I only have 3 gallons per minute well and I know the Rowleys don't have much more than that. I just don't know how they did it and I'm very disappointed in some of these things and I hate to see this go through.

HEARING OFFICER: Thank you. All right, I believe the applicant wanted some rebuttal and I would ask you to address the notice issue that was raised.

MS. JENKINS: Yes, thank you, Hearing Officer Long. A couple of quick things; the big hill that was referenced I was unfamiliar with that particular part of La Barbaria Trails and I've learned that that is beyond where Camino Tortuga forks and heads to the subject property so there would be nobody who would be a guest of the ranch would go that far down La Barbaria Trail. So up to the point where the road forks La Barbaria Trail, the grade of the road does comply with County requirements.

As part of the initial outreach to the neighborhood Susan and Sherry did an email to explain what their intentions were, invite people to visit with them at the property and asked for opportunities to visit with everybody personally and the Banks were on that distribution list so it is possible something got lost in the email. But everybody in the neighborhood was on that distribution list.

Lastly, with respect to water use, the previous owner, Tuckman, who was referenced did a geohydrology study. There are two wells on the property. One at the main house and one well that serves the casitas and the geohydrology study was done and there's a water restrictive covenant for one acre-foot of annual water use per year. We have developed a water budget and there is a water restriction covenant in place executed by the County for one acre-foot per-year, that has all been approved by the County Hydrologist.

HEARING OFFICER: That's for the entire property?

MS. JENKINS: The entire property. So there is more than enough and like I said that has been supported by a geohydrology report.

With respect to the notice, you know we do not – the property does not border La Barbaria Road. We are provided one sign from the County and the sign was put on the property and so that's what I can speak to. We will get with the County as far as prior to going to Planning

Commission to see if they want us to put up an additional sign. They provided us one and so if we need to put up an additional sign we will absolutely do that prior to the Planning Commission hearing.

HEARING OFFICER: Great.

MS. JENKINS: Thank you very much for your time. That's all I have.

HEARING OFFICER: Thank you. All right, one more.

[Duly sworn, Gary Friedman, testified as follows]

GARY FRIEDMAN: Gary Friedman, I'm sworn in but I'm counsel for the applicant. I wanted to address the issue of the association governing documents. My clients never received a copy of any governing document for La Barbaria Trail Association. Just a question, has the County been presented with a copy of any documents, governing documents for the La Barbaria Trail Association? Are they in the packet articles of incorporation or bylaws?

HEARING OFFICER: I think it was just the letter and the issue of their existence or organization and so on was not an issue until the hearing.

MR. FRIEDMAN: I take umbrage with someone representing that there is a governing body that has been properly formed under the laws of the State of New Mexico. I checked the State records online and I found nothing to show that that association has ever been incorporated and didn't find anything myself. And in any event, the only document that I have is a road maintenance agreement that is only signed by nine lot owners at that time and I know a number of people who apparently own property in that area, Mr. Banks and Mr. Shelton, they are not signatures to that document.

So I think we just have to be real careful in the message that is being given that the association has taken a position versus a few neighbors in the area.

HEARING OFFICER: So the road maintenance agreement was part of your clients closing documents?

MR. FRIEDMAN: No, actually it was not. It's not – I handled the closing. It's not in the title policy, not in the title binder and it was never even part of it. We got it later after they moved in but it merely talks about people contributing to the road. It doesn't talk about the formation – I think it's in the packet. It doesn't even talk about the formation of the association or the governing rules and regulations of the association. They don't formally exist as far as I know.

HEARING OFFICER: Well, maybe that is something that can be run down prior to the Planning Commission meeting.

MR. FRIEDMAN: Absolutely, right. I wanted to also address the point that one of the gentlemen speaking in opposition was talking about his concern about smoking. There's not going to be any smoking on this property. And also the issue about the public interest; I think there was mention made by Mr. Graeser about concerns about fire and that being the public interest criteria that can go against granting the variance. I think just the opposite. Allowing my clients to use the property as they desire is going to improve the prevention of fire risks in the future and Ms. Jenkins has talked about that in detail with the fire suppression system. So I think the public interest is certainly going to be served by the use of the property benefitting the society as a whole and the City of Santa Fe. And the danger of fire is going to be diminished.

Mr. Graeser also pointed out, we're not in a court of law, Your Honor, but Mr. Graeser in his letter talked about the Downtown Neighborhood Association Case and I just wanted to cite another reference to that case which is in paragraph 27 that says, The exact showing necessary to prove unnecessary hardship varies from case to case. And this case was the Albuquerque City Council that was involved, the Court said the City Council must make the initial determination by

considering all the relevant circumstances. Essentially, whether or not other reasonable use of the property can be accomplished is only one factor that goes before the governing body when they make a decision on whether or not to grant the variance. It's not the only factor and as we know there is various criteria in the code that is talked about.

And, I'd also like for the record to indicate another case that I know you're very well familiar with which is the case of *Pauley versus Santa Fe County Board of County Commissioners*, 138 New Mexico 82. That was a Supreme Court case. And the reason I bring that up is because like the applicant in that case, Ms. Long, Hearts Way Ranch is looking at a permitted use. In that case it was a permitted use, a telecommunication tower, and here we're looking at a use that the County has specifically said is appropriate for that area. And, also like the variance in the Pauley case, in this case the variance seeks to use the land as allowed under the zoning regulations. So in the Pauley case the Commissioners found that the denial of the variance would result in inhibiting achievement of the purpose of the code and I think that's exactly the case here. The purpose of the code is to foster economic vitality of local businesses and professionals and that's in section 1.4.2.11 and in addition, Ms. Jenkins talked about a couple of other sections of the code that relate to fostering economic vitality. So I think it is clear here, the same way in the Pauley case, is that we want to achieve the purpose of the code and the variance does not go against that.

Thank you.

HEARING OFFICER: Okay, thank you. All right, that will close the public hearing – yes.

MS. LUCERO: Hearing Officer Long, we have Victoria DeVargas here from the County Fire Prevention Division and she would like to address the letters from the Hondo Fire District.

HEARING OFFICER: All right. That seems appropriate.

VICTORIA DEVARGAS: Hearing Officer Long, I just wanted it recorded or documented that those letters this is the first time that the Fire Marshall's office has seen those. They are a representation of the district fire chief from Hondo fire district. They do not represent code. The definition of extreme fire danger that is given in that letter is in reference to the Forest Service and their daily description of daily hazards as far as winds, weather, temperatures, humidity and so forth. The extreme fire danger that this property falls under is referenced in the Wildland Urban Interface Code. I apologize I tried to find the definition for the category extreme but I was unable to find that during this hearing. So we can follow-up with that if need be.

But as far as Fire Code goes, all of those letter were addressed by inspector Tim Gilmore the requirements in reference to slope and any additional requirements such as sprinklers or water storage and the applicant has agreed to those requirements.

HEARING OFFICER: Okay, thank you for that clarification, it was a little confusing.

All right with that then our public hearing is closed. As you've heard reference to, I just make recommendations and my recommendation will go on to the Planning Commission and that will also involve another public hearing that you are able to speak at and present your views. My recommendation has to be done within 15 days. I expect that to be done sooner since I am going out of town and I want to get it done before I go out of town. I will attempt to get it done as quickly as I can. I don't usually announce my decisions. I've got to go through my notes and I'll reduce that to writing and then staff, of course, will make that available to you when it's finalized.

All right, and we have no further business.

IV. Adjournment

With no further business, Hearing Officer Long adjourned the meeting at 5 p.m.

Approved by:

Nancy Long, SLDC Hearing Officer
Santa Fe County

Henry P. Roybal
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

CASE NO. V 16-5150
HEARTS WAY RANCH
SUSAN CARTER APPLICANT

ORDER

THIS MATTER came before the Santa Fe County Planning Commission (Commission) for hearing on September 15, 2016, on the Application of Hearts Way Ranch, Susan Carter, (Applicants) for three variances of the Sustainable Land Development Code (SLDC) to allow a retreat facility consisting of 2 casitas, a yoga area, and a main residence on 39.5 acres. The Applicant requests a variance of Chapter 7, Section 7.11.6.6 to allow the grade of the approach at the intersection to exceed 5%; a variance of Chapter 7.11.2, Table 7-13, to allow the overall grade of the driveway to exceed 10% in three separate locations in order to get to the casitas and main residence; and a variance of 7.11.2 Table 7-13 Local Road Design Standards to allow access from offsite roads that do not meet Code requirements. The 39.5 acre property is located at 34 Sendero de Corazon, via La Barbaria Trail within Section 9, Township 16 North, Range 10 East (Commission District 4), SDA-3.

The Planning Commission, having reviewed the Application, staff report, the Hearing Officer's recommendation, and having conducted a public hearing on the Application, finds that the Application is well-taken and should be approved and makes the following findings of fact and conclusions of law:



NBA-104

1. The Commission hereby adopts in its entirety of the Hearing Officer's Recommended Decision and Order attached hereto as Exhibit A; and
2. The Application to allow a retreat facility consisting of 2 casitas, a yoga area, and a main residence on 39.5 acres with a variance of Chapter 7, Section 7.11.6.6 to allow the grade of the approach at the intersection to exceed 5%; a variance of Chapter 7.11.2, Table 7-13, to allow the overall grade of the driveway to exceed 10% in three separate locations in order to get to the casitas and main residence; and a variance of 7.11.2 Table 7-13 Local Road Design Standards to allow access from offsite roads is approved subject to the conditions memorialized in the Hearing Officer's Recommended Decision and Order.

IT IS SO ORDERED.

This Order was adopted by the Commission on this ____ day of _____, 2016.

THE SANTA FE COUNTY PLANNING COMMISSION

Frank Katz, Chairperson

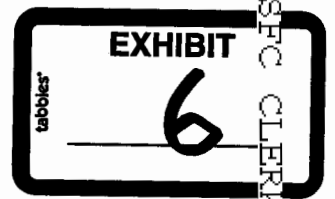
ATTEST:

Geraldine Salazar, County Clerk

APPROVED AS TO FORM:



Gregory S. Shaffer, County Attorney



SFC CLERK RECORDED 02/22/2017

12-27-16

William J Harris
125A LA BARBARIA RD
SANTA FE NM 87505

DEAR Sir:

I am opposed to the HEART'S
WAY Ranch in the LA BARBARIA
CANYON AREA.

The ROAD traffic would
increase beyond the ability of the
existing road to handle. The ROAD
is too NARROW for comfortable traffic
use. The fire danger would increase
with the increase of people.

The area has always been low
key and single family homes.
The building of this facility would
change the complexion and use
as we know it. I moved and built
my home 35 years ago, and enjoy
ed the serenity of the area and
wish to continue to do so.

Thank You
William J Harris

January 4, 2017

County Commissioners

Concerning CDRC CASE # APP 16-5151 Heart's Way Ranch Appeal

We have been residents in La Barbaria canyon for 36 years. Our house shares a boundary with the proposed Heart's Way Ranch.

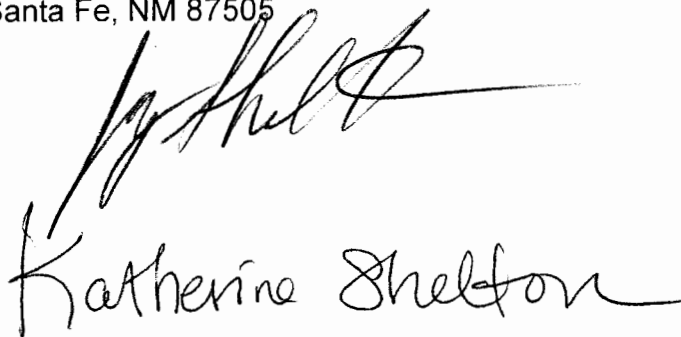
We support Richard Bank's appeal opposing granting road variances.

The roads are not only non-conforming in both grade and width, but by huge margins and in multiple locations.

If there was ever a location where road variances should not be granted, it is here. Nowhere in the entire county is fire risk higher and hence attention to fire safety more important. Lack of road compliance means emergency vehicles are less likely to be able to come to the neighborhood in an emergency, and that residents will be less likely to be able to flee in a fire emergency. And the risk of a human-caused fire starting in the neighborhood increases with more people occupying/using the neighborhood. More people can also make it harder to successfully flee – extra vehicles make bottlenecks and accidents more likely in a panic exit from the canyon.

We really hope to continue having the owners of the Heart's Way Ranch property as residential neighbors.

Jay and Katherine Shelton
50A La Barbaria Trail
Santa Fe, NM 87505

A handwritten signature in cursive script, appearing to read "Katherine Shelton". The signature is written in dark ink and is positioned below the printed name and address.

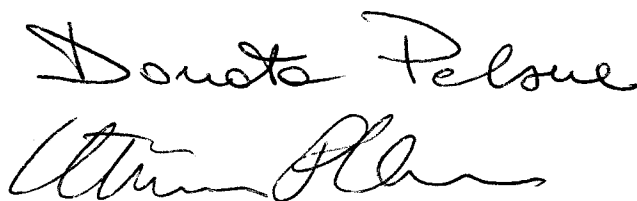
To the Planning Commissioner at the
Country Land Use Administrator
PO box 276
Santa Fe NM 87504-0276

We are residents of La Barbaria Canyon and we have just heard about the Heart's Way retreat center.
We are dismayed and very unpleasantly surprised that this may happen in a residential zoning area..

Thus, we stand with Dr. Richard M Bank in opposing the opening of this center for all the good reasons
you must already have been made aware of.

Confident that the wish of the majority will prevail.

Cordially and sincerely,
Donata and William Pelsue
67 Happy Trails
Santa Fe, NM

The block contains two handwritten signatures in black ink. The top signature is 'Donata Pelsue' and the bottom signature is 'William Pelsue'. Both are written in a cursive, flowing style.

Alison Keogh & Robert Mang
6, Placita Lorenzo
Santa Fe, NM 87505

December 28th, 2016

County Land Use Administration Office
PO Box 276
Santa Fe, NM 87504

Case No. V 16-5150 Heart's Way Ranch

Attn: Santa Fe Board of County Commissioners.

Dear Commissioners,

Concerning this case number we are submitting our comments regarding the request for an appeal of the decision and order of the Santa Fe County Planning Commission in the matter of the approval of three variances of Chapter 7 of the SLDC.

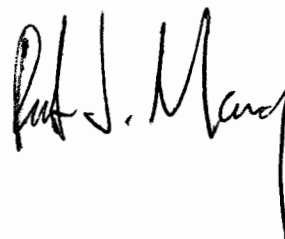
We avidly support this appeal based on the following criteria;

- 1 The first time we became aware of the Heart's Way Ranch retreat center was December 26th 2016. This for profit business venture (\$15,000 per person per month) is incompatible with the neighborhood, inter-urban wildlife interface, and the fragile nature of our environment, designated "Rural Fringe" by the SLDC. As such, this is not only a matter for residents in the immediate vicinity of the project, but for all residents in La Barbaria canyon as itemized below.
- 2 Fire hazard - retreat participants and service workers pose an increased risk of fire. La Barbaria canyon is a high risk fire environment without fire truck access to most properties. This commercial activity poses a threat to the health, safety and well-being of all the residents of La Barbaria canyon, which is contrary to the stated mission of the SLDC. Transitory visitors are not typically aware of the fire hazards in these sensitive environments and can be very careless.
- 3 Increased traffic - La Barbaria Rd currently has problems with the speed of traffic, hazardous conditions during the winter, blind crests, curves, and driveway access. More activity higher up the canyon adds to the stress of the existing infrastructure, which is currently marginal at best.
- 4 Increased water consumption - flow rates in the neighborhood have decreased in the past few years.

- 5 Setting a precedent for further development - by approving the requested variances the county commissioners are giving a license for further development on the subject property which is not in keeping with the current residential nature of the neighborhood.

We respectfully request that the commissioners **do not approve** the request for variances in the matter of case # **Case No. V 16-5150 Heart's Way Ranch.**

Sincerely,

A handwritten signature in black ink, appearing to read 'Alison Keogh', with a long horizontal flourish extending to the right.A handwritten signature in black ink, appearing to read 'Robert J. Mang', with a long vertical flourish extending downwards.

Alison Keogh & Robert Mang.

369 Montezuma Ave #570
Santa Fe, NM 87501
January 3, 2017

County Land Use Administrator
P.O. Box 276
Santa Fe, New Mexico 87504-0276

Ref: Case no. V 16-5150 Heart's Way Ranch, hearing January 10, 2017 at 5:00pm.

Dear Administrator:

My residence is on 12 Overlook Road (outside the Overlook Subdivision). The west side of our property borders on La Barbaria Road for approximately 400 feet.

I have read the appeal filed by Richard M. Bank, Ph. D. and I agree wholeheartedly with his assessments as to why variances should not be granted.

These are other points to consider to not grant the variances

- Water usage – Water is precious in our area, in the past few years I know of two private wells that have run dry requiring new wells to be drilled on La Barbaria Road. A commercial establishment will use more water than a single residence because there will be more people there. We use our water very sparingly and I can only imagine that people paying \$15,000 per month are not going to care how much water they use.
- Walking/Driving – Walking is a pleasure along La Barbaria Road and other roads in the area. When I hear or see a vehicle coming I always step off to the side of the roadways, because there is no shoulder. With a commercial establishment being serviced it only makes sense that there will be an increase in traffic making the roadways more dangerous for walking. La Barbaria Road is narrow and has blind curves and limited sight driveway entrances that make driving a challenge. If you have not driven on La Barbaria Road and then up La Barbaria Trail I recommend the excursion. You will see what the road is really like.
- Environment – We moved to our home in 1980 because we love the views and the surrounding area. There are various wildlife that we have seen around our house – coyotes, rabbits, foxes, bears, deer, and even a bobcat. I would really hate to see any of them endangered by additional traffic on La Barbaria Road.
- Land Usage – La Barbaria Road, La Barbaria Trail, and connecting roads are and should remain residential. There are other areas in the county that Heart's Way Ranch could be located without having to be issued variances. If Heart's Way is approved then we can only expect other commercial establishments to apply, such as a day-spa, camp ground, etc.

I sincerely hope you will not grant the variances to Heart's Way Ranch because of the important points in the formal appeal and my reasons above.

Respectfully,



George R. Seger

WILLA SHALIT

SFC CLERK RECORDED 02/22/2017

5 January 2016


Dear members of the Santa Fe Board of County Commissioners:

As a 26-year resident of La Barbaria Valley, I'm writing to support Richard Bank's appeal of the decision and order of the Santa Fe County Planning Commission in the matter of Case No. V 16-5150 Heart's Way Ranch.

I believe that granting the three variances for a commercial facility will set a dangerous precedent and put our area at risk.

I stand with Richard and other long-time residents asking you to protect our valley, support the appeal and deny the commercial-facility road variances.

Sincerely,

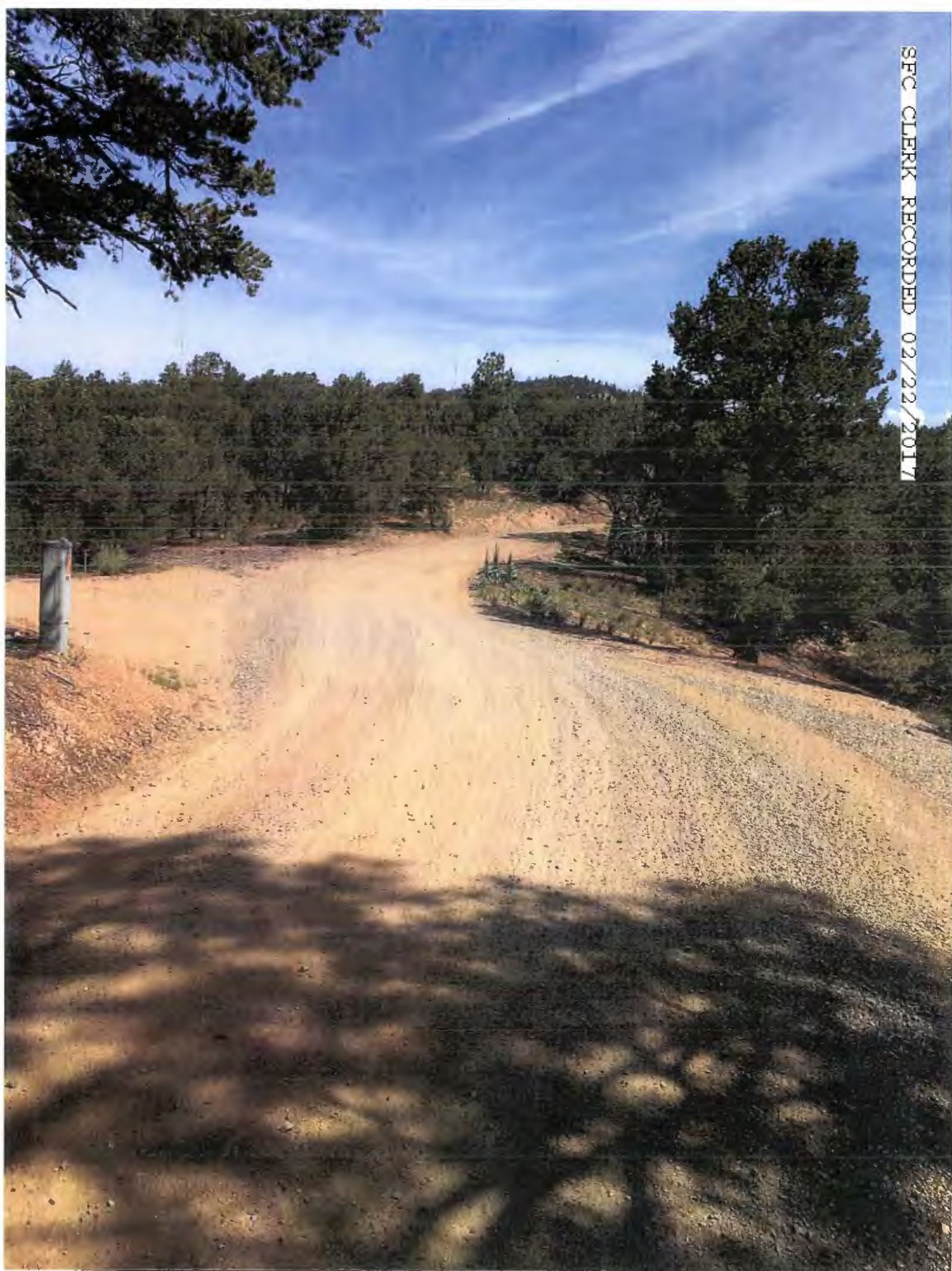
A handwritten signature in black ink, appearing to read 'Willa Shalit', followed by a long horizontal flourish line.

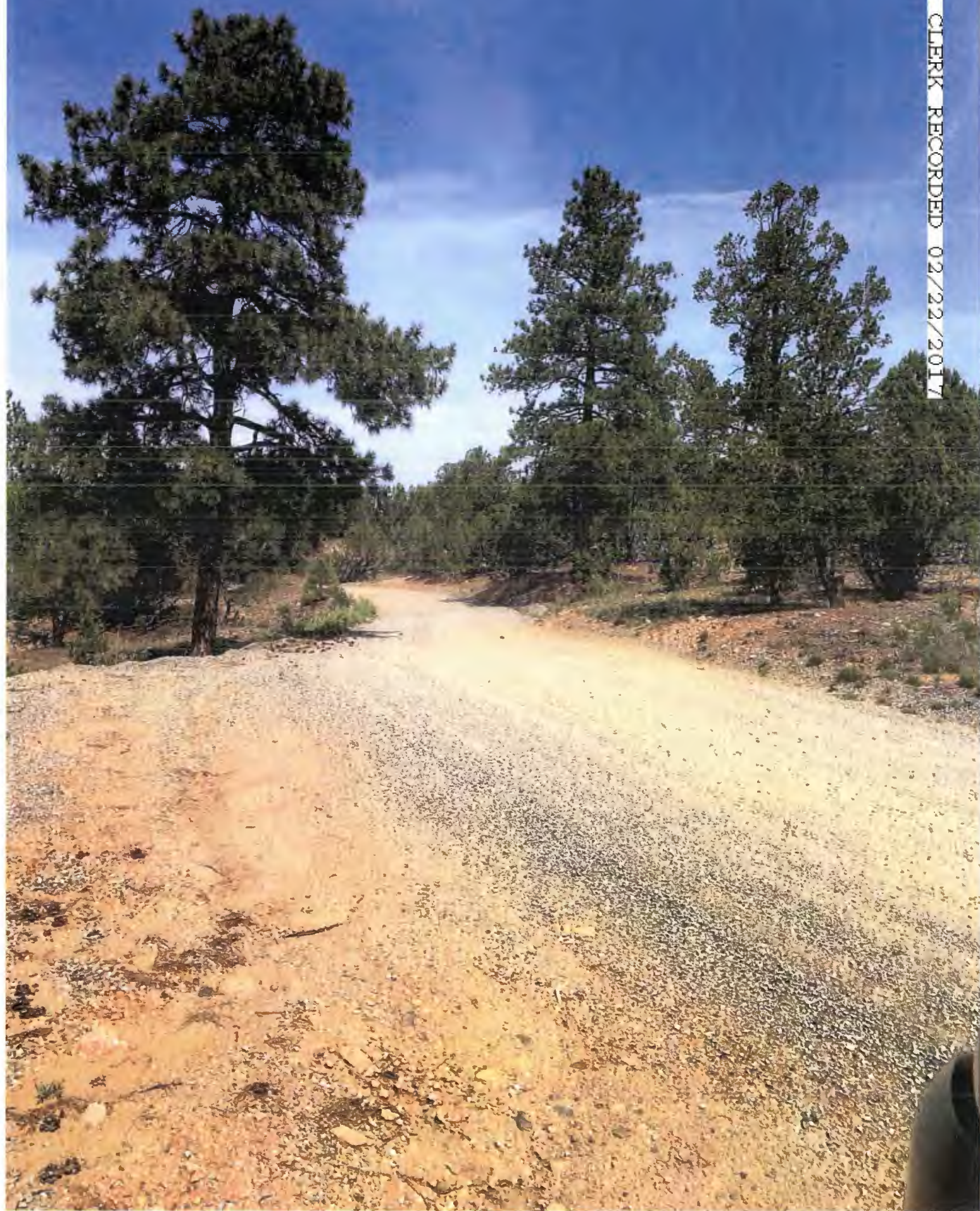
Willa Shalit
63C La Barbaria Trail

EXHIBIT
7

SFC CLERK RECORDED 02/22/2017



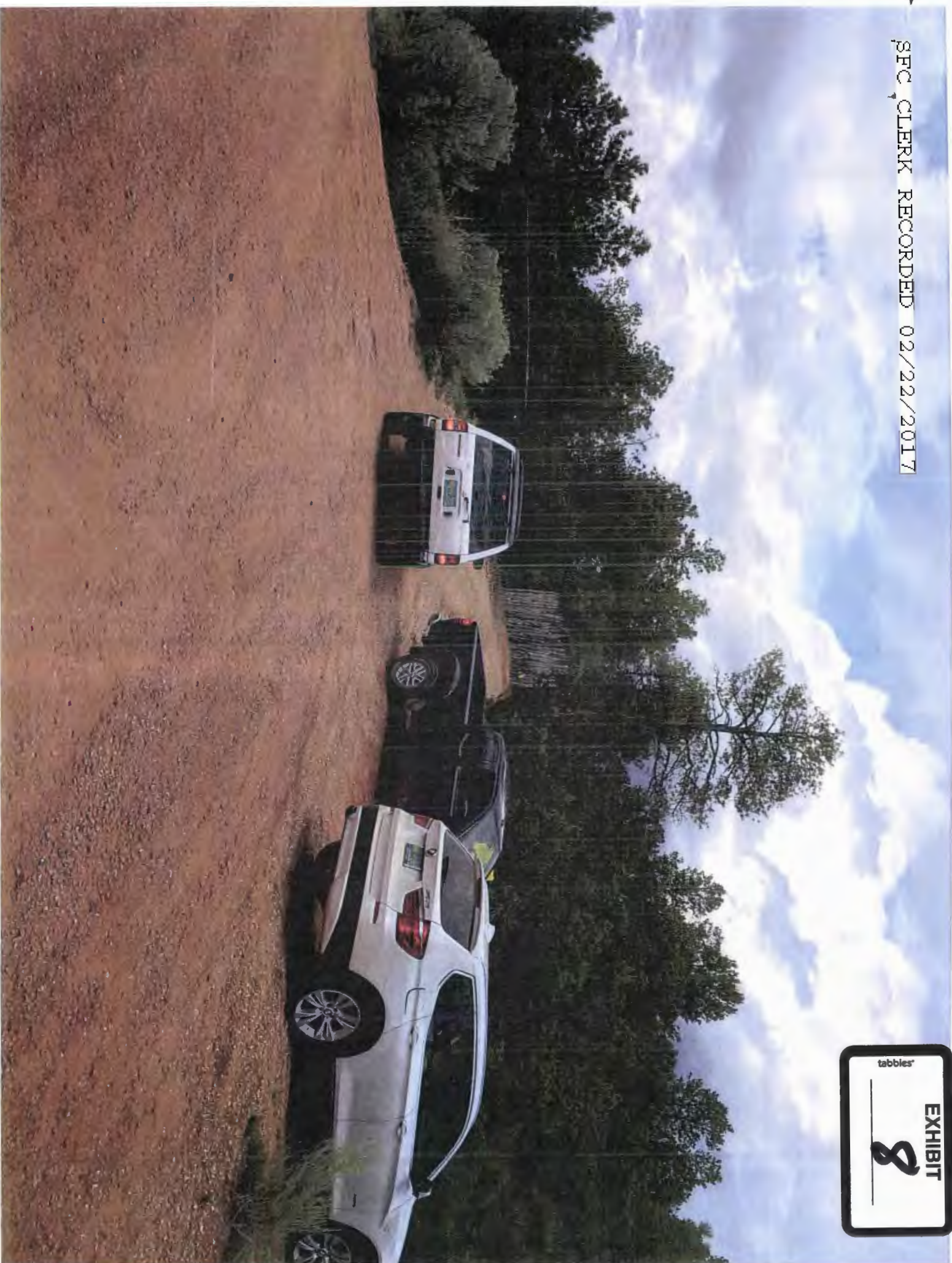




tabbles®

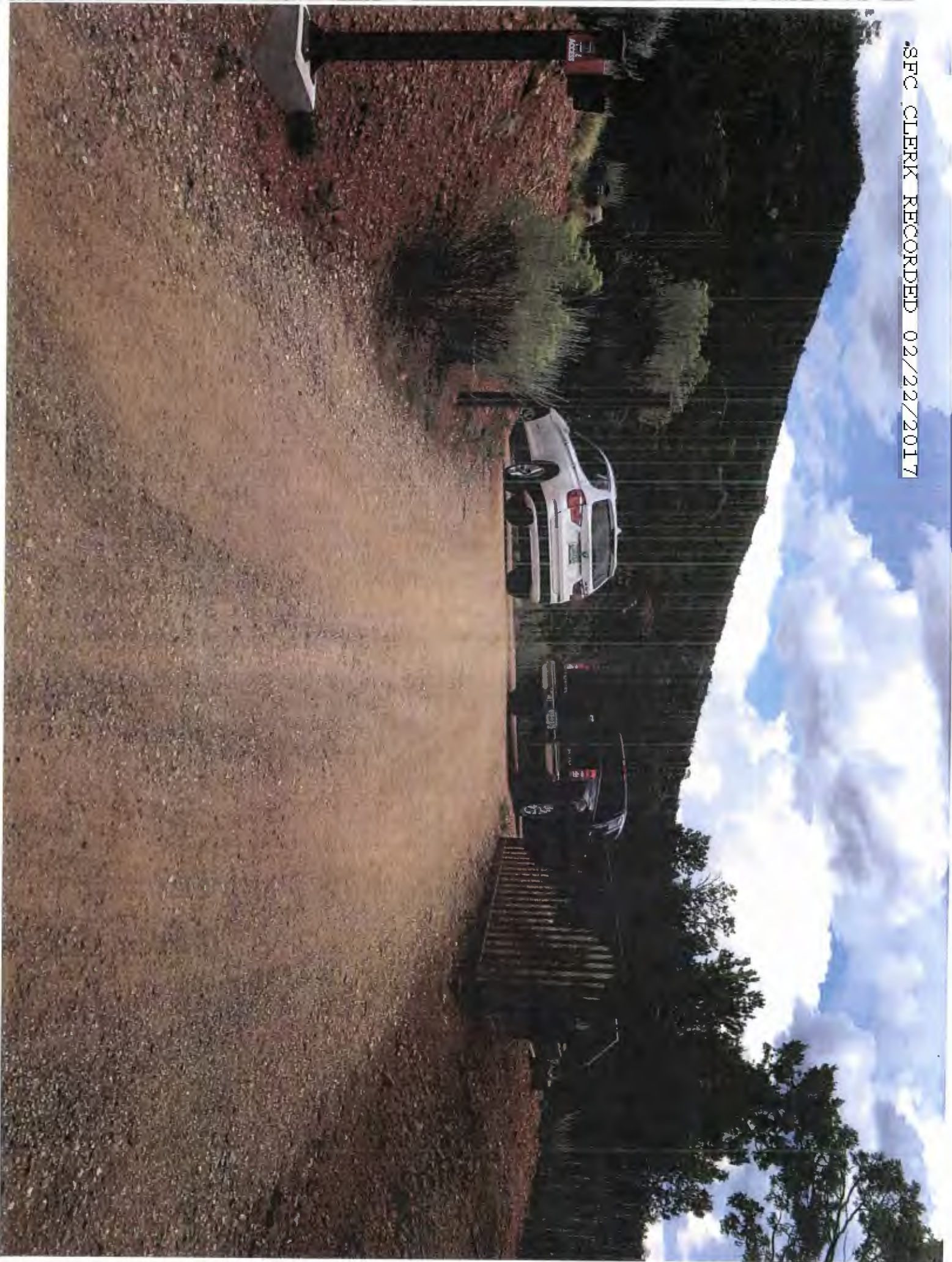
EXHIBIT

8



SFC CLERK RECORDED 02/22/2017





SFC CLERK RECORDED 02/22/2017

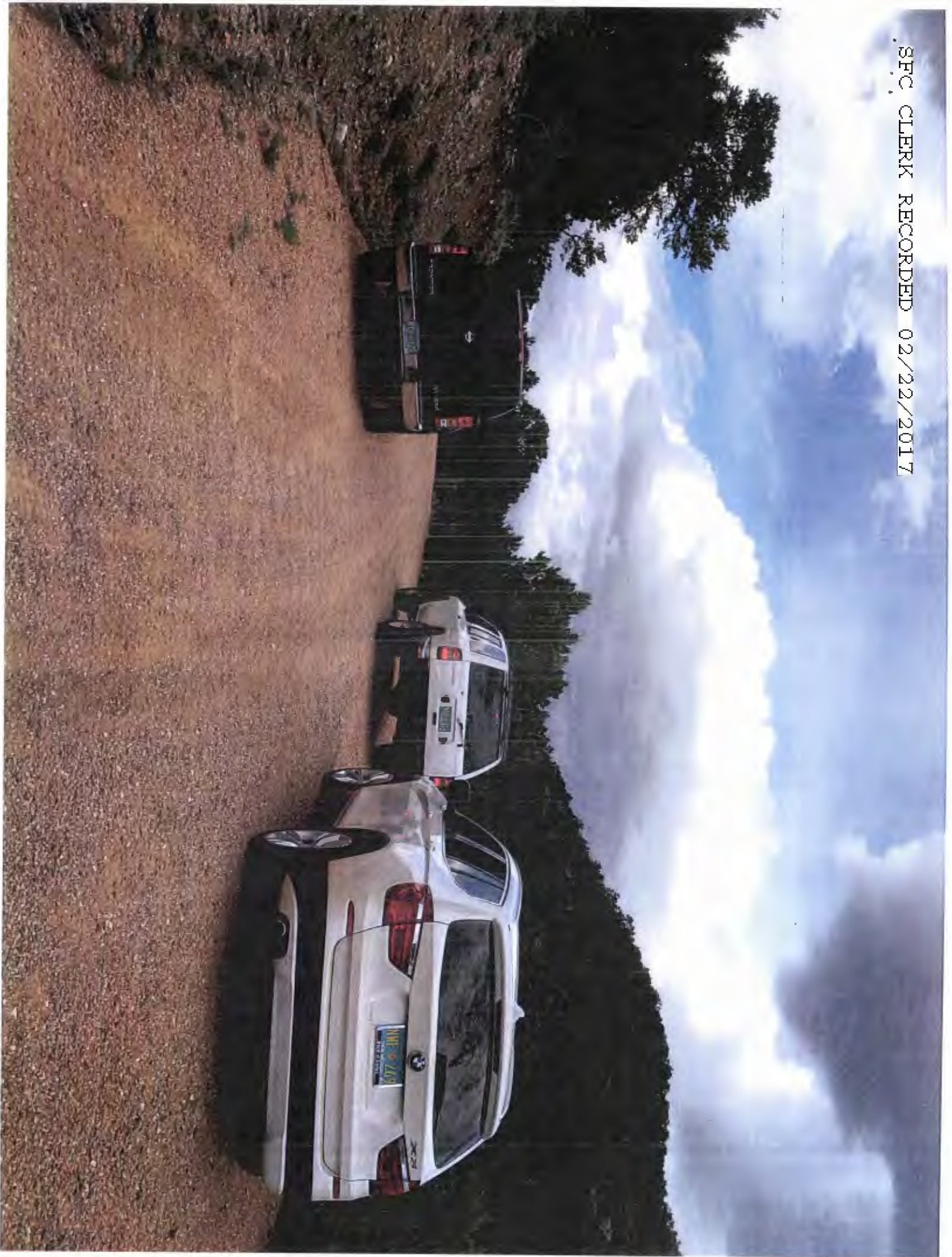




SFC CLERK RECORDED 02/22/2017



SFC CLERK RECORDED 02/22/2017



Hearts Way Ranch Letters of Support



<u>Letter</u>	<u>Name</u>	<u>Commission District</u>
1	Craig Lofton Previous Owner 34 Sendero de Corazon Santa Fe, NM 87505	District 4
2	Sandra & Kenneth Rowley 38 Camino Tortuga Santa Fe, NM 87505	District 4
3 & 4	Anna & Ken Spaeth 10 Camino Tortuga Santa Fe, NM 87505	District 4
5	Roger Ayres 50 C La Barberia Trail Santa Fe, NM 87505	District 4
6	John L Kitzmiller, MD 97A La Barberia Rd Santa Fe, NM 87505	District 4
7	Wendy Jordan 50 C La Barbaria Trail Santa Fe, NM 87505	District 4
8	Diana O. Rasche 9C La Barberia Rd Santa Fe, NM 87505	District 4
9	Daniel Welch 50B La Barberia Rd. Santa Fe, NM 87505	District 4
10	Gordon Harris 191 Overlook Dr Santa Fe, NM87505	District 4

10	Bruce Velick 100 Mountain Top Rd Santa Fe, NM 87505	District 4
10	Holly Davis 79 Mountain Top Rd Santa Fe, NM 87505	District 4
11 & 12	Cynthia & Bill Pridham 12 Mountain Top Rd Santa Fe, NM 87505	District 4
13	Rev. Duchess Dale Santa Fe Center for Spiritual Living 505 Camino de los Marquez Santa Fe, NM 87505	District 4
14	Jill Bee 356 Hillside Santa Fe, NM 87501	District 1
15	Jennifer L. Kimball Chairman of the Board, La Fonda 100 E. San Francisco St Santa Fe, NM 87501	District 1
16	Ann Reese, LCSW, LMFT 3005 Monte Sereno Dr Santa Fe, NM 87506	District 1
17	Roger A. Said 3005 Monte Sereno Dr Santa Fe, NM 87506	District 1
18	Liz Sheffield 17 Camino Delilah Santa Fe, NM 87506	District 1
19	Paul Anton Schweizer 118 E. Sunrise Dr Santa Fe, NM 87506	District 2

20	Donald J. Converse 3102 Plaza Blanca Santa Fe, NM 87507	District 5
21	Jain Lemos & Sandy H. Miller 40 Craftsman Rd Santa Fe, NM 87008	District 5
22	Karren Sahler 4146 Big Sky Rd Santa Fe, NM 87507	District 5

Total letters in support of Hearts Way Ranch: 22

Support Petitions: 31 Signatures

January 5, 2017

The Board of County Commissioners Santa Fe County
102 Grant Avenue
Santa Fe, NM 87501

RE: Heart's Way Ranch Appeal

Dear Honorable Commissioners:

I am writing in support of Susan Carter and Dr. Shari Scott, PhD, the applicants in the Heart's Way Ranch request. I was the previous owner of the property they now own. I support their efforts to establish a retreat under the guidelines of The County's Sustainable Growth Management Plan to transition women *after* rehab back to productive lives, families and careers. People who help others put their lives back together should be commended and supported.

As the previous owner of the property, I personally invested significant time and money to improve the condition of both La Barbaria Trail and Sendero de Corazon. When my wife and I purchased the property in 2012 we found La Barbaria Trail neglected and in extremely poor condition. It was an eroded, potholed washboard that was very unpleasant to drive on. Passage on the road was less than safe at times because it seemed to be an obstacle course where resident drivers were challenged to maneuver from side to side at high speed to avoid potholes, ruts and washboards.

I contacted the Road Association's Manager, Catherine Joyce-Coll, and asked if it could be improved. Catherine recruited me to focus on the road improvements while she paid attention to fire mitigation, her real interest. I accepted the offer confident I could effectively manage significant improvements to the road that all members of the La Barbaria Road Association would appreciate. I hired Redline Excavating to grade, install high quality base course, water and roll the road. After that was accomplished, I implemented a regular maintenance and repair program to keep the road in good condition. The road association paid for a majority of the work, but I paid Redline with my own money to grade and roll the road on more than two occasions.

I received very favorable feedback on Redline's work on La Barbaria Trail. Everyone I spoke to appreciated the improvements we made to our neighborhood road. There was one curious descent, however. One person I talked to told me there was a neighbor who expressed their displeasure with the improvements because the road was now too good and would encourage tourists to invade the neighborhood. I cannot help but think this is in large part representative of what is behind the appeal before you now.

We made significantly more improvements to Sendero de Corazon. Redline moved literally hundreds of yards of surface material to reduce the grades in the steeper areas, widened the drive, dug drainage ditches, installed new culverts and installed the highest quality base course material on top of it all. We built five new pullouts and a turn around for fire equipment to fire department specifications. We also installed several dozen railroad ties in a vertical position along side the drive as a guardrail/safety system.

We performed the work on Sendero de Corazon for two reasons: first, comfort and safety and, second, in anticipation of a major remodel to the main house. Our architect met and consulted with County fire officials and brought them to the property to walk the drive to get their assessment and recommendations. We completed a majority of the recommendations from those meetings. Admittedly, it was a real challenge to balance getting the drive totally compliant with newer County codes, not defacing the natural setting of the National Forest, and controlling the high cost of the work.

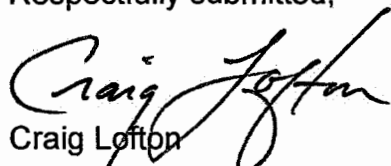
We accomplished our goals. When we lived up there, UPS and Fedex delivered packages to us nearly everyday in large delivery trucks. Pecos Petroleum and Amerigas delivered propane in large tanker trucks. I rented the largest 26-foot box trucks from Penske and Enterprise on five separate occasions to move household goods and shop equipment. We drove two 10,000 gallon water tanks up the hill as part of our water purification and fire safety projects. Clearly, the roads work for *all* the residents of La Barbara.

While living on Sendero de Corazon, I plowed snow on our drive and occasionally on La Barbara Trail, Owl Creek and Camino Tortuga. A few decades ago, I paid my college expenses plowing snow. I enjoy it. Plowing the area several times gave me a good sense of the condition of the roads and the drives. In my opinion, Sendero de Corazon is in the best condition of all the drives on La Barbara Trail and is in better condition than La Barbara Trail.

* * * * *

I appreciate the Boards consideration of this matter. I hope when you balance the merits of the Sustainable Growth Management Plan and Sustainable Land Development Code with the challenges posed by the natural environment you vote to uphold the variances granted to Heart's Way Ranch.

Respectfully submitted,


Craig Lofton

38 Camino Tortuga
Santa Fe, NM 87505
July 16, 2016

Santa Fe County Planning Commission
Attn: John Lovato, Senior Development Review Specialist

Dear Councilors:

After having thought, discussed, and prayed over the issue of changing the course of Sendero de Corazon road and knowing that it has been successfully driven-over for years past, we, Sandra and Ken Rowley, agree giving Susan Carter the two variances to keep it as it now exists. The labor, cost, disturbance of the terrain, and the time to make the changes will delay her efforts to enact a new paradigm to help women, who have already gone through rehabilitation from substance abuse, to reenter life in meaningful and successful ways. The goal is self-realization: to learn who they really are and to have the power, presence, and persistence to live meaningful, constructive lives. The women whom Susan intends to serve have previously led very successful lives, and, after a long "sleep" (similar to Rip Van Winkle's), have awakened, with rehabilitation already accomplished, to a world with major changes. This program will allow them to become whole persons again, equipped to reenter society, live fulfilling and meaningful lives.

This new approach that Susan Carter is instigating has the potential to revolutionize effective, lasting, and full recovery. Heart's Way Ranch and the center will create a new paradigm that furthers necessary change and is vitally needed for women.

Sincerely yours,
Sandra K. Rowley
Kenneth C. Rowley, M.D.

July 21, 2016

SFC CLERK RECORDED 02/22/2017

I, Anna Spath, own 17+ acres that join the land owned by Susan Carter.

I urge you to grant the two variances that Susan Carter is requesting. The Wellness Center is not only undeniably needed, but would be of great benefit to the Santa Fe Community. It is an innovative program and service that would put our community on the map for helping women successfully re-integrate into society. Susan Carter not only has the vision to create The Wellness Center in a manner that meshes with the lifestyle of our community, but she has the knowledge and professionalism to sustain the benefits to our community and the women she serves. It would be an injustice to Santa Fe and many if she is not granted these variances in order to continue her work with The Wellness Center.

Thank you,
Anna Spath

August 20, 2016

Santa Fe County Planning Commission
102 Grant Avenue
Santa Fe, NM. 87501

Dear Members of the Santa Fe County Planning Commission,

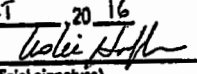
We, Anna and Ken Spaeth, own just under 20 acres contiguous to the north side of Susan Carter's property. We were surprised to learn that Chris Graeser and Catherine Joyce-Coll were representing the La Barberia Trail Road Association. We knew there was a Road Maintenance Agreement drafted in 1990 with an amendment added in 1993, but were unaware there was a formal or legal Association ever established. We were never polled or asked whether we were in favor or not of a proposed wellness retreat being established by our immediate neighbor. Because of this, we find it disingenuous that anyone is speaking on our behalf. With this in mind, we question what funds are being used to pay the legal fees to oppose the variances being applied on behalf of the said "association." We share the easement in question (via Camino Tortuga) and support the variance application. We also support the driveway variance applications due to the improvements made by the previous owners.

Finally, as per Anna's previous letter submitted on July 21, 2016, we are in full support of the retreat being proposed by Shari Scott and Susan Carter. Again, it is an enhancement to both our neighborhood and the Santa Fe community.

Thank you,


Anna and Ken Spaeth



Subscribed and affirmed before me in the county of JEFFERSON
State of Colorado, this 20 day of AUGUST, 20 16

(Notary's official signature)
05/06/2020
(Commission expiration date)

LESLIE HAFFNER
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20164017532
MY COMMISSION EXPIRES 05/06/2020

From: Roger A Ayres <rogerbill8436@gmail.com>

Date: July 9, 2016 at 10:29:12 AM MDT

To: "jshelton@newmexico.com" <jshelton@newmexico.com>, Adam Horowitz <primordials@earthlink.net>, Catherine Joyce-Coll <maxandcatherine@lobo.net>, "dojundw@icloud.com" <dojundw@icloud.com>, Debby Park <rayanddeb@gmail.com>, Denez Lopez <denezg@cs.com>, Katherine Shelton <kakshelton@gmail.com>, Ellen Souberman <isoub@aol.com>, Gail Haggard <plantsofthesouthwest@gmail.com>, James Deuschle <JKDeuschle@coxinet.net>, Kate Sinnott <patagonia40@optonline.net>, Mike Peterson <mpeters7@hughes.net>, Richard Bank <bank@cybermesa.com>, Susan Carter <src12@me.com>, Willa Shallit <willa@maidennation.com>, "wtjordan2@gmail.com" <wtjordan2@gmail.com>

Subject: Re: Proposed retreat

Bravo and thank you Jay. Your efforts are greatly appreciated... You may not be an Attorney (LOL) but your position has more legal precedent in your contiguous property line. Personally I believe that this world needs all the good we can bring... And I do believe this is a very good and worthy venture. Good for the community and our small valley. Thank you Susan for sharing your business plan and your intension with us on a personal basis. You have my full cooperation and support. Susan, I/We are available in writing, and in person as needed.

50 C

Roger and Wendy

John Lovato
Senior Development Review Specialist
Santa Fe County Land Use Division
102 Grant Avenue
Santa Fe, NM 87501

September 14, 2016

Dear Mr. Lovato,

As a resident and property owner in Barbaria Canyon, I am writing to strongly support the application of Susan Carter et al for a variance on the grade of the driveway at 34 Sendero de Corazon. As you know, plans are underway to use the two outlying casitas down the driveway from the main house as residences for a maximum of six adult women who need a 'clean' environment to continue their recovery from serious alcohol abuse. The previous owner used the casitas for long-term rentals. I inspected the property today with an automobile and I had no trouble using the driveway up to the main house or to the casitas and the former 'barn/workshop' that has been remodeled into an attractive yoga, art and group counseling space for the guests.

Susan Carter hires a neighbor for plow service in the snow-time, without any difficulty in moving up and down the hill. The future guests will not be using their own vehicles, but will be transported to town for scheduled activities in the proprietors three SUVs. Thus there will not be increased traffic on La Barbaria Road.

The potential concern of forest fire reduction has been well addressed. The present and past owners have reduced the density of trees close to the buildings and removed dead wood. There are adequate fire hydrants and a large water storage tank. The fire department has approved use of the property as planned with a few simple contingencies which can be fixed within one month.

As a physician to women, I am fully in favor of the proposed sober-living wellness retreat. This opportunity is needed in northern New Mexico. Susan Carter and her business partner Shari Scott PhD, APRN are very well prepared to organize and conduct this healing activity at the new *Heart's Way Ranch*. I wish them much success. The women returning to a sober, productive life will be a great benefit to the community.

Sincerely yours,

John L Kitzmiller, MD
Professor of Obstetrics, UCSF (ret)
97A La Barbaria Road
Santa Fe, NM 87505

From: wendy Jordan <wtjordan2@gmail.com>

Date: July 12, 2016 at 12:29:56 AM CDT

To: Willa Shalit <willa@rtmld.com>, Roger Ayres <rogerbill8436@gmail.com>, Jay & Katherine Shelton <jshelton@newmexico.com>, Adam Horowitz <primordials@earthlink.net>, Catherine Joyce-Coll <maxandcatherine@lobo.net>, Dan Welch <dojundw@icloud.com>, Deborah Dasburg Park <rayanddeb@gmail.com>, Denez Lopez <denezg@cs.com>, Katherine Shelton <kakshelton@gmail.com>, Ellen Souberman <isoub@aol.com>, Gail Haggard <plantsofthesouthwest@gmail.com>, James & Cathy Deuschle <JKDeuschle@coxinet.net>, Otis & Kate Sinnott <patagonia40@optonline.net>, Michael & Melissa Peterson <mpeters7@hughes.net>, Richard & Laura Bank <bank@cybermesa.com>

Cc: Susan Carter <src12@me.com>

Subject: Re: Proposed retreat

Dear Neighbors,

It's obvious there is a lot of thought, discussion and concerns being presented regarding Heart's Way Ranch, the sober-living wellness retreat coming to the La Barbara Trail neighborhood. In considering how to present MY thoughts about this, I decided to take a hike around the Dasburg property and up into the Santa Fe Nat'l Forest. As we entered the path, 4 mountain bikers were coming down the trail. The hikers and bikers come on our properties to enjoy the healing beauty of these mountains, fresh air, and sport. My understanding is that we welcome these folks, despite the fact that we occasionally find cigarette butts, trash, and sometimes noise is an issue.

So now we are considering Susan Carter's plan of having a well thought out, organized and regulated healing retreat for 4 to 6 women who will reside quietly, without vehicles, chaperoned when they have classes or service projects, whose intent is healing and recovery for four to six weeks at a time. These are not women who are entering a recovery program, these are women who will have already gone through recovery and are continuing to work hard to change their lives, and need & WANT to embrace a deeper level of psychological healing and spiritual awareness before re-entering their lives.

Professionally, I have also worked with people in recovery. These women would present much less risk to the community than people renting guesthouses up here for vacations in Santa

Fe. And I can't imagine a more beautiful gift than to share the healing energy of the mountains with a handful of women at a time... a gift we all enjoy daily because we are blessed to live here full-time.

I met with Susan and asked her about some of the concerns I've been hearing about... traffic and increased road usage, smoking, more garbage, etc. How impressive that Susan not only answers these questions, but has been so welcoming and accommodating as to invite all of us up to see the property, get to know her, keep the communication open and honest, and LISTEN to the concerns. I believe Susan and her business partner, who have stunning credentials in this field, will work hard to prevent or correct any problems that might arise as the result of their business.

Personally I welcome Susan and Heart's Way Ranch and I support her efforts to bring healing and spiritual awareness back to those who are seeking it.

Wendy Jordan

Jennifer Jenkins

From: Diana Rasche <diorasche@gmail.com>
Sent: Monday, September 12, 2016 3:56 PM
To: Jennifer Jenkins
Subject: Susan Carter's proposal for retreat at Hearts Way Ranch

Follow Up Flag: Flag for follow up
Flag Status: Flagged

To: John Lovato
 Senior Development Review Specialist c/o Jennifer Jenkins
 JenkinsGavin
 130 Grant Ave., #101
 Santa Fe, NM 87505

I am writing in support of Susan Carter's and her partner Shari's proposal for variances to move forward with her Retreat plan for Hearts Way Ranch. I hope that they'll be given a green light to move forward with this meaningful & philanthropic plan. I know it involves several variances, which I hope will pass and get worked out for them.

I have visited Susan at her home, on the property of Hearts Way Ranch, and heard about her vision to help women who've undergone rehab, and are looking for a very special place to continue their sobriety. I live at 9 La Barbaria, and as a neighbor, I fully support this plan, and know that Susan and her staff will insure that there will be no disturbances to the neighborhood. They are true professionals, and have a great vision to expand their guests' experiences through what the Santa Fe area has to offer. I spoke with a neighbor & her husband last night over dinner, who have lived on Happy Trails for 26 years. I briefly explained Susan's plan, and they are all for it too. Also, the neighbors who share our driveway also verbalized a support for it.

The road to her ranch and home is very well maintained; much better than many of the private roads to other neighbors' homes in the area. I don't expect nor anticipate increased traffic to and from her ranch, because the guests will not be bringing their private cars. All field trips will take place with staff escorting the guests, & special teachers for art, yoga, music etc. will come to the Ranch for periodic instruction. I know some neighbors have their guest houses listed on VRBO or AirBnB, which does increase traffic from their guests coming and going to events, work, etc. Susan's plan will create less traffic & impact for the area.

I am unable to attend the hearing, and hope that his note will be included to support Susan's plan for Hearts Way Ranch retreat.

Thank you for your time and consideration.

Diana O. Rasche
 (708) 261-8833
 9c La Barbaria Rd.
 87505

From: Daniel Welch <dojundw@icloud.com>
Subject: Re: FINAL HEARING: Heart's Way Ranch
Date: September 3, 2016 at 1:03:23 PM MDT
To: Susan Carter <src12@me.com>

Hi Susan,

Thank you for the report of the Planning Commission hearing. I was unable to attend the previous hearing and will be out of town when the next hearing occurs. I did read the attached document.

I support your endeavor and wish you and Shari all the best.

Thank you,



~~~~~

**From:** Gordon Harris <[wgordonharris@gmail.com](mailto:wgordonharris@gmail.com)>

**Date:** January 8, 2017 at 2:02:06 PM MST

**To:** Ellen Souberman <[lsoub@aol.com](mailto:lsoub@aol.com)>, Willa Shalit <[willashalit@gmail.com](mailto:willashalit@gmail.com)>, "Richard M. Bank" <[richardbank1081@gmail.com](mailto:richardbank1081@gmail.com)>

**Cc:** Holly Davis Borrero <[holly.d@mac.com](mailto:holly.d@mac.com)>, Bruce Velick <[bruce@artstacks.com](mailto:bruce@artstacks.com)>

**Subject:** Letter in support of Susan & Shari

Dear Ellen, Willa, Richard:

There's something about our neighborhood's opposition to Susan and Shari's initiative that makes me feel uncomfortable. Please understand that I have the greatest respect for all three of you and normally, I would defer to your judgment. But I have to admit that the neighborhood's intent to thwart Susan and Shari from realizing their dream leaves me feeling unbelievably sad.

While I share your desire to protect and control our neighborhood environment, I have to wonder: is there a double standard at work here?

The simple fact of the matter is that under the County's designation of our neighborhood as "Rural Fringe", a compliant commercial development (such as a bed and breakfast or a retreat facility) is absolutely, and not conditionally, permitted. Willa and Ellen's wish to not see any commercial development in the neighborhood is exactly that, a wish, and no more. None of us, I believe, has the ability under the current zoning to deny Susan her right to operate a compliant commercial enterprise on her land. If we want to deny Susan her rights, we need to change the zoning designation of our properties. I have no idea what that process might entail. But I believe that is what we would have to do.

Here's a thought experiment: what if this was the case of a poor Hispanic family with roots in the area going back 10 generations? What if they wanted to start a home based business on their land with *\*exactly\** the same impact on the neighborhood as Susan's proposed business? How comfortable would you feel about opposing their activity? Would you worry that you were exercising white privilege? Would you worry that you were contributing to the gentrification of the area and denying a family of color their livelihood?

It's my belief that that was exactly the sort of situation the County intended to address by adopting "sustainable but permissive" zoning regulations for the ex-urban area. New Mexico has laughably few mechanisms in place to prevent gentrification. We don't even have property homestead credits that prevent families from being taxed off their land. I think these zoning designations were one small step toward addressing that.

Now of course the situation here in La Barbaria canyon with Susan & Shari's proposal is so far removed from that example as to make the comparison grotesque. And you may say that we're already a gentrified, white enclave, so what does it matter? I guess I

would answer that question with another: do we really have the luxury of permitting a selective application of the law? Do we permit ourselves the latitude to exercise the law's spirit, rather than the letter? What might be the consequences? Do we inadvertently set a wider precedent in the county that ends up denying that Hispanic family in the next canyon their livelihood?

The only discretion the county has in Susan's case is the granting or denying of compliance variances. And Richard's appeal of those granted variances, based, as it seems to be, on safety concerns alone, troubles me even more.

Susan has an undeniable right to lease her two casitas and guest house to whomever is willing to pay the rent, be they saints who spend their days in silent meditation, or chain-smoking, drug abusing, hard-partying, dirt-bike riding, career criminal members of amateur rock bands with late night practice habits. Under that scenario, we all, as Susan's neighbors, would feel a huge impact and we would have absolutely no ability to impose on Susan any control whatsoever over the character or behavior of her renters. All we could do is vainly call the sheriff's department every night at 2AM to complain about the noise. The fact that Susan would never subject us to that kind of unhappiness makes Susan a good neighbor and I think we ought to be thankful.

That Susan and Shari have conceived and are approaching the development of their business with such care and sensitivity for our environs makes them deserving of our respect, not our opposition.

You might ask me, "Gordon, what dog do you have in this fight?" I believe I have several. Yes, my property does not directly abut Susan's. But we can plainly see each other's homes and that makes us neighbors in my book, with the attendant duty to be "neighborly".

First off, I know absolutely that I harbor a certain amount of anti-Texan prejudice. And as a person who strives to become aware of and compensate for my implicit biases, I know that when I encounter someone like Susan, who I believe shares my progressive values, I must welcome her and show her support. This is as much for my benefit as it is for Susan's.

Secondly, the activity in which Susan and Shari propose to engage is, on the face of it, a manifestly good one. Putting aside the socio-economic status of the clientele and our Not-In-My-Back-Yard considerations, would any of you oppose this work that they've set themselves?

Thirdly, I really do believe that Susan and Shari's business activity will be low-impact and certainly lower than other potential activities in which they would be permitted to engage. If Susan and Shari were, say, artists proposing to install a kiln or forge in which to produce their art, would you feel the same vehement opposition toward their endeavors? That activity would probably garner support and pride in the neighborhood,

even though it would demonstrably increase fire risk and delivery traffic beyond the impact of Susan and Shari's actual project.

Finally, I have to put myself in your shoes and ask myself: if Susan and Shari were my immediate next-door neighbors, would I be OK with their plans? And after setting aside my prejudice and weighing the facts, if I'm honest with myself, I have to answer "Yes, I am OK with their plans."

It pains me to find myself on the other side of an issue that is obviously important to you. Please know that I can't think of any other situation where I wouldn't be standing in complete solidarity with you.

But I'm perplexed that you-all have come to such a different conclusion as you've thought this through.

Your neighbor from across the valley,

Gordon Harris

PS: Both Holly Davis and Bruce Velick have asked to be signers on this letter too.



**Cynthia and Bill Pridham  
12 Mountain Top Road  
Santa Fe, New Mexico 87505**

July 31, 2016

Santa Fe County Planning Commission  
John Lovato, Senior Development Review Specialist  
c/o [jennifer@jenkinsgavin.com](mailto:jennifer@jenkinsgavin.com)

RE:

HEART'S WAY RANCH a proposed sober-living wellness retreat  
34 Sendero de Corazon, Santa Fe, New Mexico 87505

Dear Mr. Lovato,

Our long time friend, Susan Carter, is proposing to develop a sober-living wellness retreat on her property at 34 Sendero de Corazon in Santa Fe County. As her neighbors in La Barbaria Canyon and property/homeowners in the Overlook development, we are writing this letter of our approval and support for her retreat.

For more than thirty years, we have known Susan both personally and professionally and hold her in the highest esteem. Her educational background and business career accomplishments in public relations and executive management for national not-for-profit organizations are highly regarded and well known. While Susan's business achievements are essential ingredients for the success of Heart's Way Ranch, we would like to take this opportunity to share our knowledge of her sincere compassion to serve her community. We have watched Susan in the Dallas Fort Worth communities create volunteer opportunities for many to serve. She has a gift for building productive and meaningful alliances between community leaders and service organizations. This kind of resourcefulness and leadership from Susan will undoubtedly help connect Heart's Way Ranch residences with valuable service work for the needs of our Santa Fe community.

We hope you will consider, not only Susan's personal commitment to wellness and her passionate resolve to help others find wellbeing, but also her financial commitment to re-locate in Santa Fe and her desire to help build a noteworthy asset for Santa Fe and New Mexico.

May she be granted all necessary permits to pursue the development of Heart's Way Ranch

Respectfully submitted,

Cynthia Collins-Pridham and Bill Pridham

**Cynthia and Bill Pridham**  
**12 Mountain Top Road**  
**Santa Fe, New Mexico 87505**

January 6, 2017

The Board of County Commissioners Santa Fe County  
102 Grant Avenue  
Santa Fe, NM 87501

RE: HEART'S WAY RANCH Variances

Dear Honorable Commissioners:

As neighbors and property owners in La Barbara Canyon to Susan Carter and Dr. Shari Scott, developers of Heart's Way Ranch, we are writing this letter requesting that the variances granted Heart's Way Ranch on October 20, 2016 be upheld and any objections filed in appeal by Richard Banks be denied.

To our understanding, a thorough review of facts and conditions were outlined in the professional studies submitted with the application. Each study indicated approval by the Fire Marshal and Walker Engineering sufficient for the Hearing Officer and Planning Commission to rule in favor of the variances. In support of the development of Heart's Way Ranch, which we believe is a noteworthy endeavor and a great asset for our area, we ask for the approval of the variances to stand.

Respectfully submitted,

Cynthia Collins-Pridham and Bill Pridham

Rev. Duchess Dale  
Santa Fe Center for Spiritual Living  
505 Camino de los Marquez  
Santa Fe, New Mexico 87505  
505-983-5022

20 July 2016

Mr. John Lovato; and/or To Whom It May Concern:

Hello,

Please accept this letter for consideration as you proceed with approving any variances and permits for the Heart's Way Ranch, wellness retreat property in Santa Fe, New Mexico.

As Susan Carter's minister here in Santa Fe, I feel I have a unique perspective in endorsing and supporting the sober-living and healing retreat center she has created for professionals in a recovery community.

The opportunity that Heart's Way Ranch is going to offer is invaluable to the women who are in need of a safe haven for their recovery and healing process. The beautiful environment and facility offer guests a chance to use yoga, art, music, meditation, healthy foods, and other modalities for ensuring a strong, vibrant and safe process. This will provide important re-entry tools, experiences and service opportunities that are necessary to success to return to today's workplace and society.

In addition, I can speak to the business acumen, personal understanding and amazing compassion that Susan brings to this program. Anyone who chooses to participate at Heart's Way Ranch as a recovery guest will be blessed by their experience there with Susan and Shari.

If I can be of further assistance or support regarding this project's success, please don't hesitate to contact me.

Blessings,

*Rev. Duchess Dale*

Rev. Duchess Dale  
Senior Minister  
RevDD@SantaFeCSL.org

Dear Commissioners,

On Thursday, July 28 the Planning Commission's Hearing Officer will be reviewing a variance for 34 Sendero de Corazon.


Susan Carter and Shari Scott want to provide a critically-needed service to women who are in the early days of sobriety. Following completion of a treatment program, four to six women at a time would come to Heart's Way Ranch to continue healing. Santa Fe is an exemplary place for this to happen.

Currently the property at 34 Sendero de Corazon allows for short term rentals. Due to the size of the casitas the roads and surrounding neighbors could be impacted by random renters. The clients at Heart's Way Ranch would be well-vetted and traveling as a group, not individually, as they would not have personal vehicles. The services provided to the clients are invaluable as they prepare to re-enter the world. They will be given the tools to make better choices and to help break the cycle of addiction. The program they want to implement will be life changing and for many lifesaving. From a personal perspective, I lost a very close friend to suicide, whom had gone thru a treatment program for alcoholism at Betty Ford. Unfortunately there was not a Heart's Way Ranch to keep the good work that happened at Betty Ford going and alcoholism won.

A tool that the program will utilize is giving back to the community. Not only will the charities in Santa Fe benefit in the short run by allowing the clients to help others, but if they are like me, the benefits will last far beyond their stay at Heart's Way by financial support.

Heart's Way Ranch will benefit clients and the community. Please support the variance for women to get the help they need. Shari and Susan conducted the due diligence necessary prior to buying the property and not approving the negligible driveway variances puts this life-saving program in serious jeopardy. Given the high mortality rate of people dying daily from drugs and alcohol abuse it would not only be seriously disappointing, but negligent to the women who are in desperate need of help in the state of New Mexico as well as our country.

Thank you for your thoughtful consideration.



Jill Bee  
356 Hillside  
Santa Fe NM 87501  
(505)954-1911



September 13, 2016

Mr. John Lovato  
 Senior Development Review Specialist  
 c/o Ms. Jennifer Jenkins  
 JenkinsGavin  
 130 Grant Avenue, Suite 101  
 Santa Fe, New Mexico 87501

Dear Mr. Lovato,

As a Santa Fe resident, I am in full support of Heart's Way Ranch. The proposed sober-living wellness retreat will offer immediate treatment and unique and meaningful service work for after care and recovery. Not only will the women participating in the program reenter their own lives stronger, healthier and more vibrant with a solid foundation, they will do so with a network of support and a sense of well-being. Not every woman's struggle is the same, some need extra attention to maintain a whole and healthy lifestyle and I believe every woman deserves every opportunity to live one. At Heart's Way Ranch, they ensure you can.

Both Dr. Shari Scott and Susan Carter have spent decades in service to others. They are dedicated and passionate about the health and well-being of women, personally as well as professionally. I cannot think of two more qualified, dedicated, committed professionals who each strive for excellence in their field and exhibit the highest of ethics in support of others.

To sum it up, Dr. Scott and Ms. Carter are the epitome of what a distinguished and stellar reputation may offer a community with regard to a strong transitional program for women. They would be unable to help these women in need which will bring acclaim to Santa Fe. Please approve the variances requested by Heart's Way Ranch so they can do their important work.

Yours truly,

A handwritten signature in cursive script that reads "Jennifer L. Kimball".

Jennifer L. Kimball  
 Chairman of the board

JLK/ats



John Lovato  
Senior Development Review Specialist  
Santa Fe County

July 22, 2016

Dear Mr. Lovato,

It is with great pleasure, and without reservation that I write to support the opening of Heart's Way Ranch in Santa Fe, New Mexico. I have personally known and admired Susan Carter for over 40 years and have professionally known Shari Scott for over 20 years. Shari is a well-known, well-regarded mental health professional in the Dallas community with whom I have collaborated toward the benefit of women, children, and families numerous times. She is a skilled clinician and will bring only the highest quality and utmost care to the women who she plans to serve at Heart's Way Ranch. Susan's development expertise, having been the former Chief of Staff for Susan G. Komen, combined with Shari's clinical expertise, makes for a balanced and comprehensive program that will serve small group of women seeking wellness and healing in the beautiful Santa Fe area. As former Director of a large, private nonprofit Family Therapy Program in Dallas, I fully and completely support and endorse this incredible gift to the women whom Heart's Way Ranch will serve as well as the community of Santa Fe.

I have had the great pleasure of visiting the property on several occasions and find the roads to be fully accessible, and very well maintained. It is my understanding that the current casitas will transition from having fulltime residents to a small number of visiting retreat participants. This should result with an actual reduction in passenger traffic on the road.

Heart's Way Ranch has my full, heartfelt and complete endorsement.

Sincerely,

Ann Reese, LCSW, LMFT  
3005 Monte Sereno Dr.  
Santa Fe, NM 87506  
214-662-1467

John Lovato  
Senior Development Review Specialist  
Santa Fe County

July 22, 2016

Dear Mr. Lovato,

I am a long-time resident of Santa Fe and have known Susan Carter and Shari Scott for over 40 years. I can without reservation speak to their high standards, service to the healthcare fields, and their dedicated volunteerism.

I support the proposed women's retreat and view it as a real feather in Santa Fe's cap as a much needed service to women who seek a first-in-class, step down program. On several occasions I have visited the property and find the existing driveway in excellent condition and appropriate to the mountainous environment. It is my understanding that there will actually be a net "reduction" in road traffic, as the casitas will no longer have the current fulltime renters versus the occasional visiting clients. This will result in a reduction of road noise and overall traffic. It is for these reasons that I endorse this contribution to the community without reservation.

Please feel free to contact me directly if you have any further questions at 214-662-1570.

Sincerely,

Roger A. Said  
3005 Monte Sereno Dr.  
Santa Fe, NM 87506

August 23, 2016

Dear Mr. Lovato,

I am a strong proponent of the Heart's Way Ranch and am encouraged by what it will provide to the Santa Fe community and to women seeking a place to reenter the world surrounded by sober and health oriented individuals. I have been to the property and think it is the ideal environment for such women to feel safe in order to heal and learn a new way of living.

As a person having had experience with addiction in my family, I know firsthand that a program of this nature is desperately needed. What better place to create this retreat than the proposed setting and what a great testament of the love and understanding from our great community! If only a place like this had existed when my loved one needed an opportunity to heal and be surrounded by sober support. I feel so sure she would be alive today had one existed.

It is my understanding that some neighbors are concerned about the possibility of an increase in traffic. Given the nature of the retreat, I believe it will not. This retreat is meant to foster a peaceful, meditative environment, not a busy hectic lifestyle. The retreat will be comprised of residential users who will be spending their time at the retreat, not going back and forth into town every day. That is why it is called a retreat. Most of the residents will not even have transportation.

I also understand there is concern about the grade of the driveway at the property? The past owner hired an engineer and spent a great deal of money making it one of the safest and best driveways I have seen in the mountains. Also, the residents at the retreat will mostly be walking the property so I see no issue or reason for concern.

I further understand that there may be a concern for fire suppression. I have never seen a property that has the amount of fire suppression already in place, but if more improvements are a condition for approval of Heart's Way Ranch, then so be it.

This proposed business is important and the fact that the perfect place has already been built just seems to make sense to me. I encourage you to approve this business.

Yours sincerely,

Liz Sheffield  
17 Camino Delilah  
Santa Fe, NM 87506

## PAUL ANTON SCHWEIZER

118 E. Sunrise Drive  
Santa Fe, NM 87506-8537  
505-954-1944

pschweizer@sbcglobal.net

August 21, 2016

Via Electronic Mail Only

SANTA FE COUNTY PLANNING COMMISSION  
ATTN: Mr. John Lovato  
Senior Development Review Specialist  
102 Grant Street  
Santa Fe, New Mexico 87501  
Electronic Mail: jlovato@santafecountynm.gov

Re: Support of Variances and Permit Requested by HEART'S WAY RANCH

Dear Mr. Lovato:

I support the applications for the variances and the permit requested by HEART'S WAY RANCH, as led by Susan Carter and Shari Scott, Ph.D.

Driving the brief roads from the Old Las Vegas Highway to 34 *Sendero de Corazon*, loosely translated as the "path of our heart," along the outskirts of Santa Fe County and into the foothills of the *Sangre de Cristos*, one encounters few people. There is no traffic, and one senses the allure that has drawn people to Santa Fe for centuries, in earlier times for "Gold, God, and Glory," but since the late 19<sup>th</sup> century for personal healing.

As recently as 2010, a writer for THE NEW YORK TIMES asked "What is Santa Fe?," immediately answering "A place of healing. ... A spiritual mini-mecca for a semi-godless age," further affirming that "Santa Fe still holds out a promise of renewal, of exactly what [D. H.] Lawrence was looking for when he came to this area: a place that changes not only one's external life but also one's internal, spiritual life. ... This is a city where the wounded come for healing, and seekers come to find."

Today, as a fellow Santa Fean, I ask you to continue fulfilling such healing promise.

Ms. Carter and Dr. Scott are contemporary standard-bearers of such promise, two people who have devoted their lives to serving others, helping others heal, through wide acclaim as top

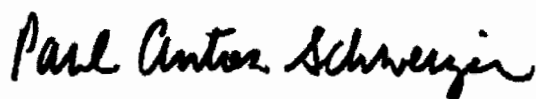
SANTA FE COUNTY PLANNING COMMISSION  
August 21, 2016  
Page 2 of 2

executives for institutions such as SUSAN G. KOMEN FOR THE CURE and personal advocacy groups offering therapy to patients desperately seeking to be healed. Ms. Carter and Dr. Scott are extraordinary women of integrity serving others. Following its history and traditions, Santa Fe should welcome Ms. Carter and Dr. Scott with outstretched and embracing arms.

Some may argue that the road to HEART'S WAY RANCH is too long, not well maintained, too highly trafficked, or otherwise inadequate, but the people seeking healing who are in deep need of this retreat will not have their own vehicles, and those who may come and go to serve them will create no more traffic than any other adjacent resident. In fact, as a non-charity serving charitable causes, HEART'S WAY RANCH will support Santa Fe County's tax base.

In light of Santa Fe's history, the wise people leading HEART'S WAY RANCH, and the lack of impact on the surrounding community, I urge you to join me in bringing this worthy endeavor to fruition.

Sincerely,



Paul Anton Schweizer

cc: Hon. Kathy Holian (kholian@santafecountynm.gov)  
Hon. Miguel Chavez (mchavez@santafecountynm.gov)  
Jennifer Jenkins, Esq. (Jennifer@JenkinsGavin.com)



July 20<sup>th</sup>, 2016

Ref: Susan Carter – Heart's Way Ranch Program

Attn: John Lovato, Senior Development Review Specialist

Dear Mr. Lovato,

I have known Ms. Carter for some time, as a congregational member at the church I attend. She told me about her ideas to help women, and was kind enough to give me a tour of her home and property as she was planning the Heart's Way Ranch program in Santa Fe, New Mexico. I was so impressed with her idea and plans to reach out to women with special needs, that I wanted to write you and express my heart felt support for Ms. Carter, and support her endeavor to establish a sober-living wellness retreat at her property located at 34 Sendero de Corazon off La Barbaria Trail.

You may already know this, but Ms. Carter has told me that the clients of the Heart's Way project will have the opportunity to be involved with service projects throughout the Santa Fe community, and that her program will highlight the intrinsic value of lessons that come from caring for others. After being part of the Heart's Way Ranch program, women will be able to re-enter their lives with a firm foundation of recovery, a network of support, and a set of unique tools for living life wholly again.

I would encourage any decision makers, including yourself, who are concerned about the Santa Fe community, to get behind Ms. Carter's project by approving a county permit for her site development plan and a business permit concurrently. Our community is in great need of such a project. A unique property, like the Sendero de Corazon one, which possesses the assets needed for this project, is a rare commodity, let alone a person with the qualities, experience and desire for community service like Susan Carter to head it up.

Please strongly consider and approve any variances needed to get this project rolling by supporting Ms. Carter's project as soon as possible. If you have any questions, I will be glad to try and answer them. My contact information is below. Thank you for your consideration.

Sincerely,

Donald J. Converse  
3102 Plaza Blanca  
Santa Fe, NM 87507  
505-303-3477

July 26, 2016

Santa Fe County Planning Commission  
Attn: John Lovato, Senior Development Review Specialist

Dear Mr. Lovato,

We're writing to support the issuance of road variances for the proposed Heart's Way Ranch business at 34 Sendero de Corazon, Santa Fe.

Certainly, when the County rezoned this area to include business use such as retreats, they understood that the roads here—including the primary access route La Barbaria Trail and private drive Sendero de Corazon—are unpaved, narrow, and in places, legal non-conforming.

We lived on the California Coast for more than 40 years; a region with very strict commercial development restrictions. Therefore, we understand, and even sympathize, with individuals who desire no growth in the areas they feel protective about. We've lived in earthquake and high fire danger communities so we understand concerns that first responders have in terms of saving lives where access is problematic. However, Ms. Carter and Ms. Scott are proposing a venture that has virtually no impact on the area's traffic volume in comparison to other ventures that are allowed under the County's zoning laws.

This nearly 40-acre "family compound" offered for sale late last year could have seen buyers who chose to use it for either private or public use. Who could know the type of traffic volume that would ensue? Many uses could have far exceeded Heart's Way Ranch's planned use of the property. Imagine the traffic influx if a movie ranch or a skating rink—both approved uses for that very parcel—were proposed instead. For private use, the property could easily accommodate up to 14 people living there full-time. Imagine if they all had cars and commuted to work every day.

Heart's Way Ranch will have 4-6 women maximum per month participating in the retreat program and none will be allowed to drive a personal vehicle on the property. Nearly all activities will be held on the property and traffic volume will be minimal in terms of cars frequently coming and going. What's more, the endeavor is a noble undertaking and brings a much needed value to our community.

It would be great if the original engineers had graded Sendero de Corazon properly. Why they didn't is a mystery and it's interesting that no one has complained about its steeper grade until now, when a business has been proposed. To bring that road to compliance by changing the parcel's grade in the two disputed areas is nearly impossible now, and would tear up the land in a way that could negatively impact the environment and wildlife. The variances should be granted without delay.

Sincerely,

Jain Lemos & Sandy H. Miller  
40 Craftsman Road  
Santa Fe, NM 87008

July 12, 2016

To John Lovato, Senior Development Review Specialist  
Santa Fe County

Re: Heart's Way Ranch

Dear Mr. Lovato,

I am writing with enthusiastic support in favor of Heart's Way Ranch. It has been my pleasure to meet both Susan Carter and Shari Scott and to have met several other people involved with other sober living facilities. I believe the vision Susan and Shari have for this new and inspired residential center is of tremendous value to Santa Fe.

Santa Fe is well known for its wide variety of alternative wellness programs and practitioners. The Heart's Way Ranch promises to add a layer of sophistication to women seeking a new way of living in the world in a sober, mindful and thoughtful manner.

In my opinion, the smallness and exclusivity of the program proposed by Heart's Way Ranch creates no threat to the community at large or to the neighborhood immediately around the Ranch, located at 34 Sendero de Corazon. It is my understanding that the proposed clientele, both as occasional visitors and as residential users, would be less than had previously been the case when several full-time occupants made several daily round-trip visits to the address in question.

I have no doubt there are several forcefully vocal naysayers to this project who fear for the safety of the neighborhood and the traffic concerns on La Barbara Trail. Heart's Way Ranch is to be a place of contemplation and healing, not a party house. It will be made up of sophisticated women, who, for various reasons, find themselves in need of kindness and support during the reshaping of their lives.

I am pleased to offer my support to Heart's Way Ranch and hope that the county will do the same.

Sincerely,

Karren Sahler

4146 Big Sky Road  
Santa Fe, NM 87507  
505-501-1385

A Petition, I wholeheartedly support the proposed Heart's Way Ranch Retreat and urge Santa Fe County to approve the requested driveway variances. Retreats are permissible in the Rural Fringe zoning district and this proposal is appropriate and welcome in our immediate and surrounding neighborhoods.

|    | Name               | Address               | Zip Code | Telephone    | Signature          |
|----|--------------------|-----------------------|----------|--------------|--------------------|
| 1  | Andy Quitt         | 7317A OSFT, SF        | 87505    | 670-7911     | Andy Quitt         |
| 2  | Don DeVito         | 42 Venida Sereno      | 87509    | 698-1868     | Don DeVito         |
| 3  | DIANE SPRANE       | 153 Ave Ponderosa     | 87535    | 699-6421     | Diane Sprane       |
| 4  | My Surt            | 7408 B Old St. La     | 87505    | 577-0648     | My Surt            |
| 5  | Susan Ventura      | 7408B OSFT            | 87507    | 505-574-5630 | Susan Ventura      |
| 6  | Kelly Quitt        | 7317A OSFT SF         | 87505    | 670-8824     | Kelly Quitt        |
| 7  | Lucie Hawksley     | 114 La Placita Cir    | 87505    | 860 248 1911 | Lucie Hawksley     |
| 8  | SHERIE STINEY ZINN | 108 MATEO J           | 87505    | 930-4105     | Sherie Stiney Zinn |
| 9  | DAVE STINEY ZINN   | DO "                  | " DO     | " DO         | Dave Stiney Zinn   |
| 10 | Anne Sides         | 72 Double Arrow Rd    | 87505    | 982 0582     | Anne Sides         |
| 11 | Hampton Sides      | 72 Double Arrow Rd    | 87505    | 982 0582     | Hampton Sides      |
| 12 | ANDY BARTLETT      | 14 CAM. QUIEN SABE    | 87505    | 984 8760     | Andy Bartlett      |
| 13 | Lowell Bartlett    | 14 Cam. Quien Sabe    | 87505    | 984 8760     | Lowell Bartlett    |
| 14 | ALAN BALL          | 14 Cam. Quien Sabe    | 87505    | 984 8760     | Alan Ball          |
| 15 | ALAN BALL          | PO Box 4403           | 87502    | 470-7153     | Alan Ball          |
| 16 | Doug Sheridan      | PO Box 9026           | 87504    | 690-4333     | Doug Sheridan      |
| 17 | Pat Brown          | 2218 Cam. Kana / OSFT | 87505    | 469-1203     | Pat Brown          |
| 18 | Jama Fontaine      | 1448 Nevada Ridge     | 87501    | 2381300      | Jama Fontaine      |
| 19 | Ruby Jones         | 223 N Guadalupe       | 87501    | 6993260      | Ruby Jones         |
| 20 | John Jones         | 1543 Escondido St     | 87507    | 699-0465     | John Jones         |
| 21 | Chiffa Murphy      | 1307 Lejano La        | 87501    | 699-4793     | Chiffa Murphy      |
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A Petition, I wholeheartedly support the proposed Heart's Way Ranch Retreat and urge Santa Fe County to approve the requested driveway variances. Retreats are permissible in the Rural Fringe zoning district and this proposal is appropriate and welcome in our immediate and surrounding neighborhoods.

|    | Name            | Address         | Zip Code | Telephone      | Signature       |
|----|-----------------|-----------------|----------|----------------|-----------------|
| 1  | Darice Ross     | 1916 Thomas ave | 87505    | 505 438-7337   | Darice Ross     |
| 2  | Paul Ross       | 1916 Thomas Ave | 87505    | 505 438-7337   | Paul Ross       |
| 3  | Lorenzo Barraza | P.O. Box 532    | 87560    | (505) 780-1625 | LORENZO BARRAZA |
| 4  | Will Armstrong  | 133 Keelson Rd. | 87501    | 505-491-0698   | Will Armstrong  |
| 5  | Jane McGinnis   | PO Box 9550     | 87504    | 946-8475       | Jane McGinnis   |
| 6  | Michael Simon   | PO Box 6666     | 87502    |                | Michael Simon   |
| 7  | GARY McGinnis   | 526 ONATE PL    | 87501    | 982-3916       | GARY McGinnis   |
| 8  | Allen Robling   | 12 Palentine Rd | 87506    | 231-5056       | Allen Robling   |
| 9  | Tina S. Canale  | 900 AASD Dr SW  | 87501    | 505 927-7061   | Tina S. Canale  |
| 10 | DENNIS KENSIL   | 9 CLOUDSTONE DR | 87505    | 501-3638       | Dennis Kensil   |
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January 5, 2017

The Board of County Commissioners Santa Fe County  
102 Grant Avenue  
Santa Fe, NM 87501

**RE: Heart's Way Ranch Appeal**

Dear Honorable Commissioners:

I am writing in support of Susan Carter and Dr. Shari Scott, PhD, the applicants in the Heart's Way Ranch request. I was the previous owner of the property they now own. I support their efforts to establish a retreat under the guidelines of The County's Sustainable Growth Management Plan to transition women *after* rehab back to productive lives, families and careers. People who help others put their lives back together should be commended and supported.

As the previous owner of the property, I personally invested significant time and money to improve the condition of both La Barbaria Trail and Sendero de Corazon. When my wife and I purchased the property in 2012 we found La Barbaria Trail neglected and in extremely poor condition. It was an eroded, potholed washboard that was very unpleasant to drive on. Passage on the road was less than safe at times because it seemed to be an obstacle course where resident drivers were challenged to maneuver from side to side at high speed to avoid potholes, ruts and washboards.

I contacted the Road Association's Manager, Catherine Joyce-Coll, and asked if it could be improved. Catherine recruited me to focus on the road improvements while she paid attention to fire mitigation, her real interest. I accepted the offer confident I could effectively manage significant improvements to the road that all members of the La Barbaria Road Association would appreciate. I hired Redline Excavating to grade, install high quality base course, water and roll the road. After that was accomplished, I implemented a regular maintenance and repair program to keep the road in good condition. The road association paid for a majority of the work, but I paid Redline with my own money to grade and roll the road on more than two occasions.

I received very favorable feedback on Redline's work on La Barbaria Trail. Everyone I spoke to appreciated the improvements we made to our neighborhood road. There was one curious descent, however. One person I talked to told me there was a neighbor who expressed their displeasure with the improvements because the road was now too good and would encourage tourists to invade the neighborhood. I cannot help but think this is in large part representative of what is behind the appeal before you now.

We made significantly more improvements to Sendero de Corazon. Redline moved literally hundreds of yards of surface material to reduce the grades in the steeper areas, widened the drive, dug drainage ditches, installed new culverts and installed the highest quality base course material on top of it all. We built five new pullouts and a turn around for fire equipment to fire department specifications. We also installed several dozen railroad ties in a vertical position along side the drive as a guardrail/safety system.

We performed the work on Sendero de Corazon for two reasons: first, comfort and safety and, second, in anticipation of a major remodel to the main house. Our architect met and consulted with County fire officials and brought them to the property to walk the drive to get their assessment and recommendations. We completed a majority of the recommendations from those meetings. Admittedly, it was a real challenge to balance getting the drive totally compliant with newer County codes, not defacing the natural setting of the National Forest, and controlling the high cost of the work.

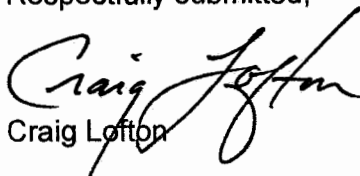
We accomplished our goals. When we lived up there, UPS and Fedex delivered packages to us nearly everyday in large delivery trucks. Pecos Petroleum and Amerigas delivered propane in large tanker trucks. I rented the largest 26-foot box trucks from Penske and Enterprise on five separate occasions to move household goods and shop equipment. We drove two 10,000 gallon water tanks up the hill as part of our water purification and fire safety projects. Clearly, the roads work for *all* the residents of La Barbaria.

While living on Sendero de Corazon, I plowed snow on our drive and occasionally on La Barbaria Trail, Owl Creek and Camino Tortuga. A few decades ago, I paid my college expenses plowing snow. I enjoy it. Plowing the area several times gave me a good sense of the condition of the roads and the drives. In my opinion, Sendero de Corazon is in the best condition of all the drives on La Barbaria Trail and is in better condition than La Barbaria Trail.

\* \* \* \* \*

I appreciate the Boards consideration of this matter. I hope when you balance the merits of the Sustainable Growth Management Plan and Sustainable Land Development Code with the challenges posed by the natural environment you vote to uphold the variances granted to Heart's Way Ranch.

Respectfully submitted,

  
Craig Lofton



Begin forwarded message:

**From:** Susan Carter <[src12@me.com](mailto:src12@me.com)>

**Subject:** REMINDER: HWR PUBLIC HEARING set for Tuesday, January 10 at 5 p.m.

**Date:** January 6, 2017 at 3:14:33 PM EST

**To:** Susan Carter <[src12@me.com](mailto:src12@me.com)>, Shari Scott <[shariscott@me.com](mailto:shariscott@me.com)>

Good afternoon!

Just a friendly reminder that the public hearing for Heart's Way Ranch is set for this **Tuesday, January 10th at 5 p.m. in the County Commission Chambers of the Santa Fe County Courthouse, corner of Grant and Palace Avenues.** Again, this is the first meeting of the newly seated Board of County Commissioners and we are one of two public hearings on the agenda. **Please note the county commissioners in the email below and if you deem appropriate please feel free to reach out to your district representative.**

Again, it is important for everyone in support to go on record at the hearing by stating your name, address and provide brief comments as they relate to the case. The points we will be driving home are as follows:

- There is no evidence to support the assertions of the appellant.
- Reiterating the existing and proposed fire safety measures and that the Fire Marshal approved the variance requests in consideration of these life safety improvements.
- THIS IS NOT AN INTENSIFICATION OF USE, which is substantiated by the traffic assessment provided by Walker Engineering.
- Reconstructing the driveway in accordance with current code standards would result in significant damage to the mountainous terrain and vegetation. The driveway has been sensitively constructed in the safest manner possible, while respecting the environment.
- The variances were approved by both the Hearing Officer and the Planning Commission and we respectfully request that the BCC uphold the approval.

Of course, we encourage you to speak your truth as you deem appropriate. The public hearings begin at 5 p.m. and we are second on the agenda. As always, if you have any questions, please do not hesitate to call me. In the meantime, thank you for your unwavering support and commitment to see us through to the end. **Shari and I can't thank you enough, but I promise we are coming up with something very special to show our appreciation!**

Look forward to seeing you this Tuesday!



**HEART'S WAY**  
RANCH

**Susan Carter**

34 Sendero de Corazon

Santa Fe, NM 87505

214.914.6487 cell

505.982.9215 ranch

[susan@heartswayranch.com](mailto:susan@heartswayranch.com)

[www.heartswayranch.com](http://www.heartswayranch.com)

Heart's Way Ranch

On Dec 28, 2016, at 12:10 PM, Susan Carter <[src12@me.com](mailto:src12@me.com)> wrote:

**Dear friends and family,**

I hope this email finds you enjoying this holiday season and preparing for a New Year full of joy and prosperity! I am writing to inform you that an appeal was filed against the Planning Commission's approval of our variance application for Heart's Way Ranch. We will be the **FIRST** land case at the **FIRST** meeting that the **NEW Board of County Commissioners** (see below) will rule upon, therefore it is extremely important that we have a strong show of support.

Shari and I have been deeply humbled by your support over these past months, and while a bit uncomfortable asking, we once again invite you to join us at the public hearing to voice your opinion and thoughts on the issues continuing to be falsely implied and the concerns we feel we have been adequately addressed. If you cannot be there in person you can voice your opinion by letter to the County Land Use Administrator, P.O. Box 276, Santa Fe, NM 87504-0276.

Please find attached the appeal, our response to the appeal, along with a list of the new Santa Fe Board of County Commissioners and their districts below. The Santa Fe Board of County Commissioners Meeting will take place on Tuesday, January 10th at 5 p.m. in the County Commission Chambers of the Santa Fe County Courthouse, corner of Grant and Palace Avenues.

Again, we are so deeply humbled by your continued support throughout this process. I might be reaching out to some of you individually as we get closer to the hearing with specific requests based on your knowledge and experience of our property, but I wanted to be sure you were able to get this on your calendars and prayer lists! Friends are like stars, you don't always see them, but you know they are there. Thank you for always being there and allowing us to SHINE ON!

Here's to peace and joy for all in the coming year!

District 1 – Henry Roybal  
District 2 – Anna Hansen (taking office in January)  
District 3 – Robert Anaya  
District 4 – Anna Hamilton (taking office in January)  
District 5 – Ed Moreno (taking office in January)

<Appeal - Bank.pdf>

<Appeal Response 12.28.15 Final-with attachments.pdf>

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**Susan Carter**  
34 Sendero de Corazon  
Santa Fe, NM 87505  
214.914.6487 cell  
505.982.9215 ranch  
[susan@heartswayranch.com](mailto:susan@heartswayranch.com)  
[www.heartswayranch.com](http://www.heartswayranch.com)  
[Heart's Way Ranch](http://Heart's Way Ranch)