

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

**Santa Fe, New Mexico**

**February 21, 2019**

**I.** This meeting of the Santa Fe County Planning Commission called to order by Chair Charlie Gonzales on the above-cited date at approximately 4:02 p.m. at the Santa Fe County Commission Chambers, Santa Fe, New Mexico. Fred Raznick was welcomed to the Commission.

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

**Members Present:**

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

**Member(s) Excused:**

None

**Staff Present:**

Vicki Lucero, Building & Development Services Manager  
Paul Kavanaugh, Building & Services Development Supervisor  
John Lovato, Development Review Specialist  
Vicente Archuleta, Development Review Specialist  
Jose Larrañaga, Development Review Specialist  
Tony Flores, Deputy County Manager  
Eric Ames, Assistant County Attorney  
Jaome Blay, Fire Marshal

**IV. Approval of Agenda**

Vicki Lucero noted that there were no changes to the agenda. Member Katz moved approval and Member Martin seconded. The motion carried by unanimous [7-0] voice vote.

SFC CLERK RECORDED 03/25/2019

V. Approval of Minutes: January 17, 2019

Member Shepherd moved to approve the January minutes as submitted. Member Katz seconded and the motion passed by unanimous [6-0] voice vote. [Member Raznick abstained.]

VI. Consent Agenda: Final Orders

- A. Case # SCSD 18-5190 Village at Galisteo Basin Preserve (aka "Trenza") Conceptual Plan. Commonweal Conservancy, Applicant, Ted Harrison, Agent, request approval for an amendment of a Conceptual Plan to allow a 36-foot tall communications tower (and its associated switching infrastructure) as an allowed use within the Galisteo Basin Preserve/Trenza Planned Development District (PD-2). The proposed Cell Tower will be on Lot 22 which comprises 468.08 acres. The site would take access from Astral Valley Road, via US 84-285. Lot 22 is located at 99 Astral Valley Road within T15N, R10E, Section 31, SDA-2 (Commission District 3) Jose Larrañaga, Case Manager (Approved 7-0)

Member Katz moved to approve the Consent Agenda and Member Martin seconded. The motion passed by unanimous [6-0] voice vote. [Member Raznick recused himself noting as a realtor he sold a parcel to someone voicing an objection to the project.]

VII. NEW BUSINESS

- A. CASE # SVAR 18-5170 Stewart Alsop Variance. Stewart Alsop, Applicant, Barbara Felix, Agent, request a variance of Chapter 9.5.3.6, Table 9-5-5, of the Tesuque Community District Overlay Dimensional Standards TCD RES-C (Residential Community) to allow a residence to exceed 20 feet in height. The property is located at 54 Big Tesuque Canyon Road within, Section 32, Township 18 North, Range 10 East, (Commission District 1) SDA-2 [Exhibit 1: Applicant's Supplementary Material]

JOHN LOVATO (Case Manager): Thank you, Mr. Chair, Planning Commission members. The property consists of 5.01 acres and is in the Residential Community District within the Tesuque Community District Overlay. The maximum height allowed in the Tesuque Community District Overlay is 20 feet. The minimum lots size within the Residential Community is 1.00 acre per dwelling unit. Currently, there is an existing two-story residence, barn, caretaker's residence, and swimming pool on the property. The applicant intends on demolishing the two-story main residence, barn, and caretaker's house. The applicant intends on constructing a new main residence with a flat roof, two-story 6,266 square foot structure, a 1,398 square foot guesthouse, and a 325 square foot accessory building. The height of the proposed two-story main residence is 24 feet in height. The maximum height allowed is 20 feet within the residential community.

On September 13, 2018, this application was presented to the Hearing Officer for consideration. The Hearing Officer recommended denial of the application as memorialized in the findings of fact and conclusions of law written order as Exhibit 12.

The Hearing Officer found that the evidence presented by the applicant did not establish that all three of the variance review criteria set out in Chapter 4, Section 4.9.7.4 were met. Specifically, the applicant did not submit evidence establishing that "strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner".

SFC CLERK RECORDED 03/25/2019

Furthermore, the Hearing Officer found that the practical difficulties set out in the application and testified to by the applicant's agent involved use of special construction techniques and materials which will increase costs, but do not result in practical difficulties that are "peculiar and exceptional" or in "exceptional and undue hardship on the owner" as required by the SLDC.

At the September 13, 2018, hearing, no one spoke in opposition or in support of the requested variance.

On October 17, 2018, the applicant's agent submitted an updated memo addressing inconsistencies with the Tesuque Community District Overlay and the Tesuque Community Plan as Exhibit 1. The applicant's agent states, "The property that is the subject of this application lies within the Tesuque Valley Community Plan Residential Estate District established by the Tesuque Community Plan. The development standards recommended for that district states structure height up to 26 feet on slopes less than 15 percent should be permitted. Thus, the plan reflects the Tesuque Community's preference after substantial input and evaluation that the maximum permitted height of structures on slopes of less than 15 percent is 26 feet."

On January 23, 2019, The Tesuque Valley Community Association wrote a letter in support of the variance request. The Association has been meeting with Santa Fe County staff on amending the Tesuque Community District Overlay to reflect the Tesuque Community Plan which was adopted in 2013. The 2013 Tesuque Community plan allows for a 26-foot height on residences. The Tesuque Valley Community Association further stated the structure was in the valley which is surrounded by many trees and at the end of a dead-end road. Furthermore, the Tesuque Valley Association and surrounding neighbors are in support of the application and state the proposed residence will not adversely impact surrounding neighbors or areas.

The applicant's agent further states, "Unfortunately, and inexplicably, Section 9.5 of the SLDC does not reflect that preference, despite the fact that Section 9.5.1 expressly states that the provisions of the Tesuque Community District Overlay are to be consistent with the land use goals, objectives, policies, and strategies of the Tesuque Community Plan."

Staff Response: Although the Tesuque Community Plan development standards recommended a height of 26 feet, the plan is a set of policies and outlines for the community. However, the community has met with the Planning Department and are going through the steps needed to amend the design standards to allow a 26-foot height. This process will take time as there will be substantial noticing. In addition, a letter of support has been received from the Tesuque Valley Community Association who are also a County recognized Community Organization and who includes members of the Tesuque Planning Committee which states their intent to amend the design standards and supports this variance request.

The applicant's agent has also re-addressed the variance criteria and staff has responded to the criteria as contained in the report.

Staff recommendation: Since the Hearing Officer meeting, the Community of Tesuque has had discussion about how to amend the design standards to allow a 26-foot high structure. This will need to go through a public process and will take some time. In addition, the Tesuque Valley Community Association and the Community Organization support this application. Therefore, staff recommends approval of the variances subject to the following conditions. Mr. Chair, can I enter those conditions into the record?

CHAIR GONZALES: Yes, you may.

[The conditions are as follows:]

1. The development must comply with all other design standards of the SLDC and Chapter 9.5, the Tesuque Community District Overlay.
2. The development must comply with Fire Prevention requirements and conditions.

SFC CLERK RECORDED 03/25/2019

3. The variance is for the main house only. All other structures shall meet the height restrictions of the SLDC.

MR. LOVATO: And I stand for any questions.

CHAIR GONZALES: Okay. Does the Commission have any questions of staff? Mr. Katz.

MEMBER KATZ: Why didn't the code adopt the Tesuque Valley Community's desire to have 26 feet?

MR. LOVATO: Mr. Chair, Commission Member Katz, I believe it was just something that was overlooked. I don't know a specific reason why. Perhaps Vicki may know.

MS. LUCERO: Mr. Chair, Commission Member Katz, I think Mr. Lovato is correct. The community, when the overlay district regulations came forward, the community had the opportunity to review those to assure that they were also consistent with the plan, and I think it was something that just was overlooked.

MEMBER KATZ: Okay. The other question is how long would it take to repair that in the code?

MS. LUCERO: Mr. Chair, Commission Member Katz, it's quite a lengthy process. They have to meet as a community, meet with County staff, do noticing in regards to the changes and then come back for a recommendation and approval. So it could take six months, maybe a year. Anywhere in between there.

MEMBER KATZ: Thank you very much.

CHAIR GONZALES: Vicki, will these proposed changes come through us?

MS. LUCERO: Mr. Chair, it would be a text amendment, so it would be required to come before the Planning Commission for a recommendation.

CHAIR GONZALES: Thank you. If there aren't any other questions, is the applicant ready to make a presentation.

FRANK HERDMAN: Mr. Chair, members of the Commission, my name is Frank Herdman and I am counsel for the applicant, and I want to begin by thanking staff for the time and attention that they have put into this application. We really appreciate it. The applicant's presentation will include myself, the architect for the project, Barbara Felix, and the applicant and owner of the property, Stewart Alsop. I want to make sure everybody has this two-page handout and I want to start by looking at that. [*See, Exhibit 1*]

I want to begin by looking at the first page of that handout and that first page is an aerial photograph showing the property and the surrounding area. The sheet provides some important context to help understand the proposed development and the need for the variance. The property is a five-acre parcel. The boundary is shown by the blue dashed line. It's a five-acre parcel that's located at the very end of Tesuque Canyon Road. The lot is situated in a canyon. The Tesuque Creek and an acequia both run through the lot from east to west. You see on the aerial photograph the existing residence. The acequia is located on the north side of the existing residence and the Tesuque Creek is located on the south side of the residence. The existing residence, together with the other existing structures will be removed as part of the proposed development.

The next page shows the proposed development on the lot and explains how the features of the lot impose some very real constraints on the ability to build on the lot. The area you see there in red, which is well over half of the size of the parcel, has steep slopes exceeding 15 percent. On the plat that was approved by the County several years ago for the property, that area was specifically designated as a no-build area. So there's no construction permitted in the area shown in red representing well over half of the property.

The area in purple, that strip of purple that you see running from left to right, that shows the setback and effectively a no-build area for the acequia that runs through the lot from east to west. The area that you see in blue toward the bottom of the property, that is the no-build area imposed by the 20-foot setback from the Tesuque Creek. And then the green strip that you see running along the western boundary of the lot is the five-foot setback from the property line.

So if we didn't have these development constraints the code would actually allow for development on 20 percent of this area. However, because of these features of the property and the no-build restrictions that have been imposed by the County, the actual buildable area on the lot is substantially less than the 25 percent that would otherwise be allowed by the code. And you see on that second sheet, the buildable area, which is shown in white, is a narrow triangle and the shape of that buildable area, just by virtue of the fact that it's a narrow triangle presents additional constraints on the ability to squeeze development into that small portion of the property.

So I want to go back to the first sheet for just a moment for purposes of comparing the existing structure to the proposed new residence. You see on the first sheet the aerial, the existing residence, part of it is obscured by some trees. But you get a sense of the size of that structure. If we look back at the second sheet – well, let me pause and go back and say the footprint of that existing residence is 6,734 square feet. If we turn to the second sheet, you see that the footprint of the proposed residence is 4,006 square feet. We've excluded the portals from that. The portals will not have foundations underneath them. The portals will have a natural stone material so they're not considered a part of the footprint of the structure.

So the proposed residence will have a footprint that is 40 percent smaller than the footprint of the existing residence. And I want to look more closely at the design of the proposed residence. If you look at that second sheet, and we focus on the blue area designated as the footprint of the proposed new residence you'll see in the blue cross-hatching, that represents the second floor of the proposed residence. The square footage of that area is only 2,142 square feet, and that represents one-half of the total footprint, which is equal to 4,000 square feet, more or less, of the structure. So the code also permits an administrative adjustment which allows of up to ten percent of the height restriction of the code, so that, coupled with the 20 feet in the code, gets us up to 20 feet that would otherwise be permitted by the code, despite the fact as I'll explain, that there was an oversight in the code, that it doesn't reflect the community's preferred height restrictions.

So the bottom line here is technically speaking, relative to the 20 feet that's imposed by the code, we get two feet on top of that, so we're asking for a variance of a mere two feet to accommodate only the limited area of the second floor of the residence, which comprises one-half of the footprint of the structure, a relatively small area overall.

With that background I want to turn to the variance criteria in the code. The variance criteria, as you know, is comprised of three parts. The first part asks whether the requested variance is contrary to the public interest. The answer to that is obviously no for more than one reason. First, the structure, as we see in that first aerial, that first sheet, the aerial photograph, the structure is located in a heavily wooded lot. It's at the end of a dead-end road. It's in a steep canyon and it will not be visible from the property owned by the applicant which includes his adjacent parcel immediately to the west. So there will be no visible impact with respect to any surrounding properties.

Second, the extent of the variance is limited, as I explained. Third, the proposed height of the structure is actually less than the height that is recommended. Staff touched on this. It's less than the height that was recommended for the Tesuque area in the County's Sustainable Land Use Growth Management Plan. And I want to elaborate on this a little bit. In 2013 the County adopted the Tesuque Community Plan. That amends and is part of the County's Sustainable Land Use Growth Management Plan, also known as the SGMP. The Tesuque Community Plan states unequivocally that it was adopted

SFC CLERK RECORDED 03/25/2019

after an extensive planning process that included numerous community meetings, workshops for the purpose of gathering input from the Tesuque community to ensure that the plan comports with the community's vision for appropriate and compatible development. I was actually involved in the adoption of that plan and I can assure you it was an extensive community input process.

The Tesuque Community Plan also states, if you look at the plan, that it as adopted, and I quote, "to describe current conditions and major trends and to provide recommendations and strategies for achieving the community's visions and goals." That as he stated purpose of that document and it remains so today. So as staff has confirmed to you the Tesuque Community Plan calls for a maximum permitted height of 26 feet for structures on slopes less than 15 percent. That's what we have here. However, if we look at the code, as staff has confirmed, for some reason there was an oversight and we have 20 feet.

If we look at Section 9.5 of the Code, the SLDC, that's the provisions of the code that contain the development standards for the Tesuque community overlay district, where this property is located. Section 9.5.1 of the code expressly states, and I quote, "The provisions of the Tesuque community overlay district are intended to implement and be consistent with the land use goals, objectives, policies and strategies in the Tesuque Community Plan. So it is stated expressly in the code that the Tesuque overlay district provisions, the development standards, are intended to reflect what we find in the plan. Regrettably, there was an oversight of one digit – zero for six, in other words 20 feet in lieu of 26 feet.

On page 45 of your packet you will find we have met with the Tesuque Valley Community Association regarding this issue. When I became involved with this process I was told that the Tesuque Valley Community Association actually had begun the process of seeking amendments to the code that included this oversight relative to the height restriction. And the letter on page 45 of your packet, it explains the TVCA explains that it actually prefers the higher height restriction that's in the plan over what's in the code because that higher height restriction encourages the preservation of rural and agricultural aspects of the area because a more lenient height restriction allows you to build up as opposed to building low and out. And that's exactly what we're trying to do in this cases.

The TVCA also explains that it's in the process of seeking that amendment. I met with staff to find out how long that process would take. You were actually scheduled to hear this variance I think it was in January. We put that process on hold so I could confer with staff to see whether we could expeditiously amend the code in order to make sure that the code comports with the plan. Regrettably, I was informed by staff that that process will take at least eight months and as you heard this evening, maybe even up to a year. So staff encouraged us to proceed with the variance with the understanding that the TVCA is proceeding with that amendment. I fully anticipate, because the community supports it, that it will be granted because it will comport with the height restrictions that are stated in the plan. There's no guesswork there.

So all of that is a long way of saying that the variance most certainly is not inconsistent with the public interest as is required to be shown for the first part of the variance criteria.

The second part of the variance criteria asks whether there are conditions of the property that create exceptional and practical difficulties in having to comply with the code. And I want to emphasize that the standard is not whether the code restrictions make it impossible to develop the property. The issue is whether the restrictions of the code create exceptional and practical difficulties. We submit that the height restriction should be 26 feet; I'm prepared to demonstrate to you that we in any event satisfy the variance criteria with respect to the 20 feet with the 22 feet added for the administrative adjustment.

And I want to quote to you from the New Mexico Supreme Court, lest there be any doubt that impossibility is not required. You probably are all familiar with the Paule case that involved a variance granted by the County and in that case the New Mexico Supreme Court confirmed that a property owner need not show that the property is valueless without the variance and cannot be used for any other

SFC CLERK RECORDED 03/25/2019

permitted purpose. In that case, you may recall, the County granted a variance for a 134-foot tall cell tower where the height restrictions were something in the neighborhood of 30 feet.

In all due respect to the Hearing Officer, having read his decision, I think that he imposed a criterion that is more stringent than that which is permitted and contemplated in the code. He asked of the applicant, could a lower home – or words to this effect – a lower home be constructed without technical difficulties. That’s not the standards in the code. And if the granting of a variance depends on a yes or no answer to that, that’s tantamount to asking can you build a home on the property, any home on the property. And I think he concluded if the answer is yes that you don’t get the variance. Again, impossibility is not the standard. Practical difficulties is essentially the standard.

So in this case, as I’ve explained, there are conditions on the lot – the slopes, the acequia, the river, the irrigated land, that create practical difficulties in developing the lot because they shrink the buildable area in that small, narrow triangle and as a result it makes sense to build up as opposed to down and low in the interest of preserving the irrigated lands. And I forgot to mention that if you look on the aerial photograph you’ll see – I want to digress for just a moment. If you go back to that Sheet 1 you will see on the left side of the lot, the western side of the lot, immediately to the left of the existing home, a portion of the property is part of an old historic and existing orchard, which is part of the historic irrigated land on the lot, which imposes an additional constraint on the development. So by building up a little bit as opposed to down and low we are actually able to preserve the open space on the property and we’re also able to better accommodate the development constraints that are imposed on the lot.

So the third part of the variance criteria asks whether the spirit of the SLDC is observed and substantial justice is done; that answer is yes to both of those. Substantial justice is done here because the proposed residence is consistent with the preference of the community that contemplates heights up to 26 feet, or actually two feet below that. The spirit of the SLDC is observed also because Section 9.5 of the code actually states that the purpose of the overlay district is to reflect what’s in the plan. It’s regrettable that we don’t have that. So substantial justice is actually being done here because this project is consistent and actually a little bit lower than the preferred height restrictions that the community prefers.

So to conclude, the variance criteria is satisfied and I conclude by stating that the applicant accepts all of staff’s conditions, including the condition that this variance would be restricted to the main residence only. I stand for any questions. Ms. Felix has something to add and then the owner would like to make a brief statement to you as well. Thank you.

[Duly sworn, Barbara Felix testified as follows:]

BARBARA FELIX: Barbara Felix. I also want to reiterate, Commissioner Gonzales and other Planning Commissioners, appreciation to staff. This has been a long process and they’ve done a really great job of helping us through it, so we greatly appreciate them.

I just wanted to note, as Frank had mentioned, when you look at the first page – I’m going to kind of point along this – so this is where the acequia is running and then the river is running down here. The acequia – currently the existing house is actually tucked into and built into with the 15 feet that separates the acequia. So one of our goals in designing this house was actually to not only meet the 15 feet but actually move the house 25 feet away from the acequia, in part because the existing structure is experiencing a lot of water damage on the north side because what’s happening is water runs down the slope, runs into the building, and then we’re experiencing water damage.

So if you look at the second page we’re actually holding the edge of the building 25 feet away, which is more than the 15 feet required by the acequia.

We’re also looking at the river, which actually the code requires a minimum 75-foot setback unless we have a stabilized bank, which allows us to go to the 25 feet. And so the 25 feet is where we are in our initial submittal for the variance package. We’ve provided a letter from an engineer stating that the bank is

SFC CLERK RECORDED 03/25/2019

in fact stabilized. So again, we're working within the requirements and some of the requirements that are there are actually more strict than what we've been showing.

I also want to talk about – Frank mentioned the irrigated land and the historic apple trees. Some of these apple trees are easily more than 50 years old and so again, they're mature, still producing fruit trees.

What I also want to point out is on this first page, this large tree here, and then there's some kind of lighter blue pine trees along here, those are also incredibly mature trees. And so the tree that's in this center area of this house is probably at least 80 feet tall. It's a very mature, healthy ponderosa pine and if you look at the second page, in working with Stewart, the owner, what we've done is – and I realize it doesn't quite show up as well, but this tiny little gray speck that's on this kind of corner on the west side of the property, that is that mature tree. So we've actually brought an arborist out. We've talked to the arborist about how we protect the roots of that tree in order to maintain that tree. The small trees that are along the edge here, again on the west side, are some of those mature blue spruce that again are easily more than 45 and 50 feet tall.

So again, we've worked really hard, along with the owner and the staff, to really put this house into a place that still makes sense, not only with the spirit of the Sustainable Land Development Code but also with the spirit of what the property has been historically.

Why we feel the need to go up instead of out – clearly again there is this 6,700 square foot house on the property now. I think part of the intention is to really make the footprint a little bit smaller. We all know as we move into more sustainable building it's important and sometimes there's more efficiencies in building up versus building out. It's important to keep the irrigated land and important to keep the trees. And so by building up in a way that we're really only taking 50 percent of the main floor and putting that on the second floor we're achieving approximately the same square footage of the house that we're removing but we're doing it in a way that is actually more sensitive to what is happening in the site currently.

So again, in talking with the owner, it's been very important all along and Stewart won't mention this: he's owned the property for over 20 years. Stewart is very committed to the Tesuque Valley and all of the things that are here which is why we've worked so hard with him to make sure the structure we're designing really meets the spirit and historic nature of that code. With that I'm going to hand it over to Stewart.

[Duly sworn, Stewart Alsop testified as follows:]

STEWART ALSOP: Stewart Alsop. Commissioners, staff, thank you very much for this opportunity to give you just a little bit of background. I'll make a brief statement here. As Barbara mentioned, I've owned this property for almost 20 years, not more than 20. I bought it in 2000, and I've learned during that time that I really have a job to do which is to be a steward – I know my name is Stewart, so I'm trying to distinguish between the two – but be the steward for an exceptional property in the Tesuque Valley.

I'm the third owner of this property and as we've owned the properties and gone through issues with the property we've really learned what the constraints are in that property. Our property hosts the diversion for the acequia and so we have been the mayordomo for the acequia in the past; we're not currently, but we're well aware that both the creek and the acequia are sourced inside of our property. That acequia was an original source of irrigation for what I believe, and I can't historically prove this, was that the entire canyon was an apple orchard, so a feature of all the properties along the acequia are apple trees, historic apple trees that have been around for a long time, very mature trees. Many of those trees continue to be productive and irrigated in the subdivided properties, including ours.

So when we set out to upgrade the property nearly four years ago, Barbara and I and others started working on a master plan for the property and trying to figure out what's the right thing to do with this

SFC  
CLERK  
RECORDED  
03/25/2019

property, we discovered that there were significant constraints on the construction on this lot, which have been mentioned: the 30 percent slope on more than half of the property, the 25-foot setback from the Tesuque River. We call it the Big Tesuque River but apparently a lot of people like to call it Tesuque Creek, and other issues as have been outlined by my colleagues.

So from our desire to respect and accommodate the extraordinary nature of this property it became clear that we wanted to reduce the footprint of the residence on the property from the original building, built in the 1950s. That building fills the property from side to side and one of the difficulties that we've had is getting equipment into the back part of the property because there's no room. So we started thinking about how to build a new residence on the property and we came up with the idea of repositioning the building, turning it around slightly, and adding a small second story so that we would have a smaller footprint for the building, and that's why we're here to present the request for a variance.

So we know our neighbors in the community are supportive of this request and we know that the building will remain invisible from outside of the property, whether you're on the Windsor Trail that goes up one side, or down the road from the property. So we hope that you will consider this request for a waiver both reasonable and consistent with the requirements of the property. Thank you very much.

CHAIR GONZALES: Thank you. Okay. Anybody else from your team need to speak? Okay. Does the Commission have any questions of the applicant?

MEMBER SHEPHERD: Mr. Chair.

CHAIR GONZALES: Mr. Shepherd.

MEMBER SHEPHERD: Question for probably the owner. How old are the buildings on the current property.

MR. ALSOP: The primary residence, I believe it was built in 1958. Sixty-one years old.

MEMBER SHEPHERD: And the other buildings?

MR. ALSOP: The other buildings were built subsequently but we don't have dates on the other buildings. You'll notice that our plan is to replace all of the buildings one for one. So we're not adding any new buildings. We are moving them around, but it's the same basic square footage but we actually end up with a smaller footprint overall because we make the main residence taller.

MEMBER SHEPHERD: And the intended use of the guesthouse is –

MR. ALSOP: For guests.

MEMBER SHEPHERD: For family and friends, temporary residents as opposed to a –

MR. ALSOP: Yes, it's not a fully occupied building. My wife and I do intend to live here full time and I'm in the process of disengaging from my venture capital firm in San Francisco so that I can live here full time. So the two of us will live in the main residence and use the guesthouse for people that come to visit.

MEMBER SHEPHERD: Thank you.

MR. ALSOP: Sure.

CHAIR GONZALES: Okay. J. J.

MEMBER J.J. GONZALES: I have questions for Mr. Alsop. This case came before the Hearing Officer in September. I'm a new member on this committee. It was at the Hearing Officer in September. Why wasn't this information available that you presented today. The attorney presented a very good case, went to the Tesuque Valley Association and found out there's discrepancies between the plan and the overlay of Tesuque and why was that information not available? That's a question I have, because it seems that had this information been available in September there would have been maybe a different outcome instead of a denial.

MR. ALSOP: It could well be and this is just speaking for myself. This is a new process for me. I have owned the property for a long time but we didn't set out to start upgrading it until recently. You

SFC CLERK RECORDED 03/25/2019

heard me say we started about four years ago. It turns out we started while the new code was being adopted by the County. So personally, I didn't understand that process was going on and I would say that we were a little slow in understanding what the variance requirements were and how to present them. So that's why we withdrew and postponed the hearing so that we could understand better what the process was and the requirements.

MR. HERDMAN: I didn't become involved in this case until after the decision of the Hearing Officer, and then when I became involved, as I mentioned, I was involved in the adoption of the Tesuque Community Plan. I represent Bishop's Lodge through that process. And so it was by virtue of my familiarity with the plan and the process that it occurred to me after the decision of the Hearing Officer, because I wasn't involved until later, that there was a disconnect between the plan and the code. So it was by virtue of my involvement subsequent to the decision of the Hearing Officer that that issue arose and then I met with staff with respect to the inconsistency to try to sort it out. So that's fundamentally the explanation. There was no intent whatsoever to keep information from the Hearing Officer, especially helpful information that probably would have supported a better outcome from him. So it's just a matter of pure accident.

MEMBER J.J. GONZALES: Thank you.

CHAIR GONZALES: Okay. Any other questions? I have a couple. Is – I guess Barbara, is the swimming pool going to stay?

MS. FELIX: The swimming pool is going to stay and be relocated. Yes.

CHAIR GONZALES: Is there going to be any grading involved at all?

MS. FELIX: Minimal. There'll be some grading where we're pulling out the old structure, because again, we're tucked back up into the hill and as Stewart mentioned, one of the issues that is going on right now is because the structure basically goes from the shoulder, the acequia, tucked into the acequia almost all the way to the river, it's almost impossible to get anything around behind the building.

CHAIR GONZALES: So it appears that a grading plan is not needed.

MS. FELIX: We will give you a grading plan. I mean that's just part of our due diligence.

CHAIR GONZALES: Okay. Earlier you said something around the area where the new proposed house is going to be farther away from the acequia. If you look on Exhibit 2 it looks like it's pretty close to the same. If I'm reading it right. I'm looking at Exhibit 2. The outline in red, that's the old house?

MS. FELIX: Yes. The outline in red is the old house and this, if you look at Exhibit 2, kind of the deep corner, that's the new house. So we're actually pulling it away. We're looking at the possibility, and this has been changed from where this is, because this was tucked back too far. There's bears in the canyon, so we're looking at a way to actually have kind of a safe place to have garbage and trash that's protected from the bears. So you are correct in this plan that's shoved back in the same place, and what we're proposing and I understand it's very difficult to see, it's actually pulled down further.

CHAIR GONZALES: Okay. That's all the questions I had.

MS. FELIX: All right. And can I answer very quickly to Commissioner Shepherd's? The house that was built in the fifties, the main residence is a cement block house with a pumice-crete roof that has no insulation. Because Stewart has owned the property as long as he has we've done some previous, very small remodels and it's that great 1950s construction that actually has the concrete tubes for the HVAC system buried in dirt. So the house is actually starting to experience some real chronic problems that we just can't repair in an efficient way that will actually make the structure continue to be livable.

CHAIR GONZALES: Okay. Thank you. This is a public hearing. Does anyone out there want to speak in favor of or against this proposed variance?

[Duly sworn, testified as follows:]

SFC CLERK RECORDED 03/25/2019

LYNN PICKARD: Lynn Pickard. Mr. Chair and members of the Commission, my name is Lynn Pickard. I'm the co-chair of the Tesuque Valley Community Association. I'm here with Margo Cutler who is another member of the association. Together the two of us are the people who the Board of County Commissioners approved as the contact people for the community organization that it approved. And I won't reiterate what everybody else said. I just wanted you to know that we were here and we stand in support of the application. And if you have any questions I'll be happy to answer them.

CHAIR GONZALES: Okay. Thank you. All right. Anybody else? Okay, does the Commission have any questions, discussion or any motions?

MEMBER KATZ: I have a little bit of a discussion, Mr. Chair.

CHAIR GONZALES: You bet.

MEMBER KATZ: It's very clear to me that the first and the third criteria are amply met. In reviewing the materials I was, as the Hearing Officers, had some questions in my mind. It was pretty clear to me that being denied living in a Barbara Felix designed house for eight months is an undue hardship that I suffer and all of us do. But I think that the evidence that we've heard about the historic trees and some of the other factors about the limitations on the property do clarify that it is the nature of the property, not the design of the house that causes the hardship. And so I would move, if it is an appropriate thing to do, to make those findings and grant the application for the exception to go to 24 feet.

MEMBER MARTIN: Second.

MEMBER SHEPHERD: Mr. Chair.

CHAIR GONZALES: Mr. Shepherd.

MEMBER SHEPHERD: The staff recommended three conditions. Is that attached to the motion?

MEMBER KATZ: Yes. Those conditions are attached.

CHAIR GONZALES: Thank you, Mr. Shepherd.

**The motion passed by unanimous [7-0] voice vote.**

- VIII. B. Case No. 19-5010 Jon and Zona Alexander Legal Lot Recognition. Jon and Zona Alexander, Applicant, Richard Chatroop, Agent requests Legal Lot of Record Recognition of a 10.00-acre parcel of land as per Chapter 14, Section 14.6.9.4 (Nonconforming (Legal) Lots of Record) of the Santa Fe County Sustainable Land Development Code (SLDC), Ordinance No. 2016-9. The property is located within the Rural Zoning District, southwest of the Town of Madrid at #97 Dancing Horse Road, which is off of Camino Cerro Chato, within projected Section 9, Township 13 North, Range 7 East (Commission District 3) [Exhibit 2: Boundary Survey]**

VICENTE ARCHULETA (Case Manager): Jon and Zona Alexander, applicant, Richard Chatroop, Agent requests Legal Lot of Record Recognition of a ten-acre parcel of land.

The applicant does not have a notarized pre-1981 deed or approved plat to prove legal lot of record. Either is necessary for the Land Use Administrator to recognize a pre-code legal lot of record.

Chapter 14, Section 14.6.9.4, Nonconforming Legal Lots of Record, of the Santa Fe County Sustainable Land Development Code states:

If the owner/applicant cannot submit a document in compliance with this Section, but has other evidence demonstrating compliance with this Section, the evidence shall be submitted to the Planning Commission. The Planning Commission shall determine if the evidence establishes the existence of the lot on the effective date of the SLDC.

SFC CLERK RECORDED 03/25/2019

The applicant's agent has submitted the following report and documents as proof of intent to create the applicant's 10-acre parcel. A 40-acre tract was created in 1979 then divided into four ten-acre tracts. Commission members, Exhibit 2 shows the four lots in question with the original tract. The number is incorrect. It should be the original tract would be number 1. Number 1 would be number 2, and I'll explain that in the report. Number 2 will be number 3, so it's just moving one number down.

The original 40-acre parcel, which is number one was created by a deed from J. W. M. Associates to Harold A. Cohen. The warranty deed was notarized on March 5, 1979, which created the 40-acre parcel as a legal lot

Number 2 is a ten-acre parcel which is the NE  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of NW  $\frac{1}{4}$  of Section 9 was created by warranty deed and notarized on June 1, 1980, and that's under Book 697, Page 157. The ten-acre parcel can be recognized by the Land Use Administrator as a legal lot of record.

Number 3, a ten-acre parcel, NW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  was created by a real estate contract and notarized July 30, 1980 and recorded in the Clerk's Office on July 30, 1980. The warranty deed for the above mentioned ten-acre parcel was notarized on July 15, 1980 and recorded in 992. The ten-acre parcel can be recognized by the Land Use Administrator as a legal lot of record. Does that clarify a little bit more?

MEMBER RAZNICK: Is that the correct numbering?

MR. ARCHULETA: That's the correct numbering. Yes.

Number 4 is a ten-acre parcel. The warranty deed was recorded on January 23, 1981 which was 23 days after the Land Development Code was created. So the intent was there to create this lot prior to 1981, even though it was recorded 23 days after the code went into effect. So this is the lot – the applicant has provided that this as it shows that this ten-acre tract was intended to be created prior to January 1, 1981 as it would have been advertised and offered for sell well before that date.

If the Planning Commission recognizes that there was intent to create this ten-acre tract prior to January 1, 1981, then the fourth tract would have been created through exclusion.

In addition, the applicant submitted the following information regarding the lot created through exclusion. A ten-acre parcel, SE  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 9, Number 5 on the aerial map, real estate contract from Harold A Cohen, and Ariane F. Emery, his wife, to Terrance Keith Waller and Karen Wening, husband and wife, and Jon Alexander and Zona Alexander, husband and wife, recorded on April 11, 1983. The warranty deed for the above mentioned ten-acre parcel was notarized on March 20, 1983 and recorded in the County Clerk's Office on March 22, 1991.

On December 23, 2015, Terrence Keith Waller and Karen Wening, husband and wife, recorded a quitclaim deed to Jon Alexander and Zona Alexander, husband and wife, the SE  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 9, containing ten acres, more or less.

The quitclaim deed was recorded in the Office of the County Clerk as Instrument Number 1782514.

The applicant now requests the Planning Commission to recognize the ten-acre parcel as a legal lot of record based on the surrounding lots sold by Harold Cohen and Ariane Emery, his wife, by deed prior to January 1, 1981.

Recommendation: If the Planning Commission finds in favor of the application, Staff recommends the following conditions be imposed:

1. The Applicant's prepare a Boundary Survey plat to be approved by the Santa Fe County Land Use Administrator and recorded in the Office of the County Clerk.
2. Declaration of Water Restrictions and Conservation Covenants imposing a .25 acre feet per dwelling unit per year be signed and notarized and recorded in the Office of the County Clerk.

Jose passed out a copy of the boundary survey prior to the meeting. That's all I have I'll stand for any questions.

CHAIR GONZALES: Okay. Thank you, Vicente. I have a couple quick questions. So looking at this board up here now, corresponding with your numbers, so number 1, the 40-acre tract would be the combination of all four of them?

MR. ARCHULETA: That's correct. This was the original 40 acres.

CHAIR GONZALES: Okay, so which is the one that you cannot get the legal lot of record for right now.

MR. ARCHULETA: This is the one that doesn't have the legal lot of record. This was the one that was created 23 days after the code went into effect. And these two were sold prior to 1981.

CHAIR GONZALES: Thank you, Vicente. Also, what I would like for you to do – I don't know if you want to do it or if Rick could do it. Could you explain to this Commission what an exemption by exclusion means for a legal lot of record?

[Duly sworn, Richard Chatroop testified as follows:]

RICHARD CHATROOP: Mr. Chair, Commissioners, the exclusion is that we're starting with the 40-acre overall parcel. Then by the conveyance of the three parcels around it all that's left is ten acres. The other parcels to the east and west of it, or the south and east of this have all been conveyed.

CHAIR GONZALES: Sorry to interrupt you for a minute but what I wanted you to just maybe in general explain the process for proving legal lot of record by exclusion. Just for this Commission. I used to work at the City. I used to work with you on that all the time, but I don't think these people know exactly what that means.

MR. CHATROOP: This is the same tract again, this would be the subject property we're talking about. After meeting with the staff and the Land Use Administrator and the County staff they indicated that I have proved legal lot of record which requires me to go into the County records, many of the grantor or grantee books and do a very lengthy search going backwards by name after name after name until you find the original conveyances. And that's what we've done here with all these different documents. I understand it's a bit confusing, but the properties have transferred and changed over the last 38 years since this has been in effect. So these have all been basically established except for the subject property for close to 38, 39 years and we have the documents proving that they were created legally because they were done prior to the adoption of the code, and that's our whole case right here. By adopting things prior to the code, starting with 40, three tens are missing out of that now. There's just a remainder lot, which is the excluded lot, and that's where you come up with the last ten acres that we're trying to get recognized.

CHAIR GONZALES: Thank you.

MEMBER SHEPHERD: Mr. Chair.

CHAIR GONZALES: Mr. Shepherd.

MEMBER SHEPHERD: As I look through it and understand what you said, if you flip to the other one with the 2, 3, 4, 5. As I understand it, lot 2 and lot 3 there, there's no question about those. Okay. Lot 4, if I look at it from the standpoint of pre-1981, what's on the books pre-1981, I would see lot 2 for ten acres, lot 3 for ten acres, and another parcel for 20 acres, which would be the combined 4 and 5, because pre-1981 4 and 5 wasn't split yet. Am I reading the information correctly?

MR. CHATROOP: That is correct. In the meetings with the Land Use Administrator and the staff, they were comfortable with even though the 23 days had passed since the adoption of the code, that they didn't think that that would be a case where the lot was all of a sudden created, subjected to a sale, put up for sale, and then sold in the matter of a couple weeks right after the code. So they would not let me come forward unless I had provided documentation that they were relatively comfortable with that the intent was there to create the lots. Mr. Cohen owned all four lots and he was obviously marketing them at the time, each lot as a ten-acre piece. So the marketing and stuff, it's just – at that

SFC CLERK RECORDED 03/25/2019

time, in the late 1980 and into 1981, many people were not even aware that the code was going to be in effect. So they were going on as they had done for all the years with no code until 1981. So that was there – especially in this area which is very rural, this is far from the only case out here this has happened to. The whole area is littered with this kind of conveyances prior to the code and after the code.

MEMBER SHEPHERD: So it would see that parcel number 4 is the crux of the discussion, because if that in fact is a parcel of ten acres, then as it says in here, then by process of mathematical deduction, the other one pops out. So back to lot 4. Could there be an additional discussion about lot 4 and it says here that it was notarized in January of 1981 and it wasn't recorded until October of 1993?

MR. CHATROOP: Many of these were not recorded because they were done on real estate contracts, and you don't get the property till you pay it off. That's the timeframe between the acknowledgement and the notarization and the final recording is because they don't own it because it's a real estate contract. It's not like a mortgage where you have mortgage rights. This is a real estate contract. If you don't pay it, it goes back to the original owner.

MEMBER SHEPHERD: Thank you.

CHAIR GONZALES: J. J.

MEMBER J.J. GONZALES: A couple of questions I have is, Dr. Cohen bought 40 acres there and his intent was to do what with it? Sell it over? Turn it over? Flip it? Or what was the situation?

MR. CHATROOP: Since I didn't know Dr. Cohen 40 years ago I'm pretty sure his intent was to make a sale of this. He has not retained any of the property.

MEMBER J.J. GONZALES: Was he a land developer by any means or anything?

MR. CHATROOP: He was a doctor and he just was obviously a man of means.

MEMBER J.J. GONZALES: And as far as creating a legal lot by deed, is that the case –

MR. CHATROOP: That was the way it was done prior to the code.

MEMBER J.J. GONZALES: It's not done that way anymore.

MR. CHATROOP: No. Now you have a whole approvals process.

MEMBER J.J. GONZALES: Okay. So in those days it was like unregulated –

MR. CHATROOP: It was the wild west.

MEMBER J.J. GONZALES: It was the wild west, you call it. And the other question I have is when did the Alexanders purchase that property?

MR. CHATROOP: That was 1983.

MEMBER J.J. GONZALES: And who did they purchase it from?

MR. CHATROOP: Cohen.

MEMBER J.J. GONZALES: And then there's another person there, Keith Waller and Wening.

MR. CHATROOP: Keith Waller is here.

MEMBER J.J. GONZALES: And when did they –

MR. CHATROOP: They were also involved in the purchase.

MEMBER J.J. GONZALES: On that same lot?

MR. CHATROOP: Same lot.

MEMBER J.J. GONZALES: There were four parties, or four persons, two couples, two married –

MR. CHATROOP: Right.

MEMBER J.J. GONZALES: And so how did that happen? Four people owned it or two parties owned it?

SFC CLERK RECORDED 03/25/2019

MR. CHATROOP: Yes. Two parties owned it, and then the Wallers actually relinquished their rights to it later.

MEMBER J.J. GONZALES: Are there any houses on that lot?

MR. CHATROOP: There is a house on there. If you look on the boundary survey, I'm showing the residence.

MEMBER J.J. GONZALES: Okay. I see it. What about the other lots? Do the other lots have houses too?

MR. CHATROOP: I know there's a house on the lot to the north. Some of these may be covered up by the – there's a structure here. There's one here. We have a house here, we have another structure here, and there is another structure here but it's not a home.

MEMBER J.J. GONZALES: What about lot number 5?

MR. CHATROOP: Lot number 5 has a home as shown on the boundary survey. I've indicated the residence.

MEMBER J.J. GONZALES: So there's already a house on lot number 4. Who lives in that house?

MR. CHATROOP: Lot number 4, I don't know.

MEMBER J.J. GONZALES: Well, who's the owner?

MR. CHATROOP: Lot number 4 would be Harvold.

MEMBER J.J. GONZALES: Well, what lot are we talking about today?

MR. CHATROOP: Five.

MEMBER J.J. GONZALES: Lot number 5. Okay. Is there a house on lot number 5?

MR. CHATROOP: Yes, there is.

MEMBER J.J. GONZALES: And who is the owner presently?

MR. CHATROOP: That is Alexander.

MEMBER J.J. GONZALES: Alexander. And how did they acquire that lot and when did they acquire that lot?

MR. CHATROOP: That was acquired in 1983 through Cohen.

MEMBER J.J. GONZALES: What kind of deed did they give them?

MR. CHATROOP: It was a real estate contract and now they have a warranty deed.

MEMBER J.J. GONZALES: I thought it was a quitclaim deed.

MR. CHATROOP: No. Waller and the second party involved quitclaimed their interest to Alexander.

MEMBER J.J. GONZALES: And Alexander has a warranty deed for that property?

MR. CHATROOP: All four of them had the warranty deed to the property, but by the quitclaiming they've relinquished – Waller and Wening gave up their rights to that portion of the property.

MEMBER J.J. GONZALES: Whatever interest they had they conveyed –

MR. CHATROOP: They conveyed to Alexander. So it was all Alexander's lot after that.

MEMBER J.J. GONZALES: But that's a lot already, so what's the situation – why does it have to be recognized as a legal lot of record? There's a house on it. People dwell in it.

MR. CHATROOP: It's already taxed and recognized by the Tax Department. It's just the follow-through for the County staff so if they sell the lot – the Alexanders have now passed. Okay? So their estate is trying to convey the property and a new buyer of course is going to be reluctant to buy the property unless the County staff can recognize it as a legal lot.

MEMBER J.J. GONZALES: Vicente.

SFC CLERK RECORDED 03/25/2019

MR. ARCHULETA: In order for them to get building permits they have to prove it's a legal lot of record. And if they wanted to get permits for this without coming forward we wouldn't issue them any permits.

MEMBER J.J. GONZALES: That explains to me what the situation is. I didn't realize the Alexanders were deceased and the situation, there was an estate involved. I didn't see any of that in my notes. But I see the situation there. It's perfectly clear now what the situation is. It's not a scheme to try to do lot splits and stuff that are so common in the past. Okay. Thank you.

CHAIR GONZALES: Rick, I had another question. Have you established legal lot of record for east of number 5 and the south of number 5?

MR. CHATROOP: We have lots that are recorded here on the boundary survey. Plat references and lots that are recorded.

CHAIR GONZALES: And those have been acknowledged as legal lots of record?

MR. CHATROOP: Yes.

CHAIR GONZALES: Thank you. Any other questions? Okay. I don't know if I messed up your presentation by asking you to come forward and explain your legal lot of record. Do you have a presentation you want to make?

MR. CHATROOP: No, I've basically said about everything you could say about it.

CHAIR GONZALES: Okay. This is a public hearing. Does anybody here want to speak in favor of or against this? No? Okay. Does the Commission have any other questions, discussion or motions on this case? Hold on a second. Vicki has something.

MS. LUCERO: Mr. Chair, if you would formally close the public hearing if there's no one here to speak.

CHAIR GONZALES: Yes, thank you, Vicki. No one's here to speak. I close the public hearing. Fred, please.

MEMBER RAZNICK: Mr. Chair, I move the application be approved subject to staff recommendations.

MEMBER MARTIN: Second.

CHAIR GONZALES: Okay. We have a motion and a second.

**The motion passed by unanimous [7-0] voice vote.**

**C. Possible action on the Findings of Fact and Conclusions of Law for Case #19- 5010, Jon and Zona Alexander Legal Lot Recognition**

CHAIR GONZALES: What do we do on this?

MS. LUCERO: Mr. Chair, it's regarding the case that was just approved. The order was prepared with staff's recommendation for approval and since you went with staff's recommendation action could be taken on that.

CHAIR GONZALES: So I'd ask for a motion, right?

MS. LUCERO: Correct.

CHAIR GONZALES: Okay, so I need a motion.

MEMBER MARTIN: So moved.

CHAIR GONZALES: Do I have a second?

MEMBER RAZNICK: Second.

SFC CLERK RECORDED 03/25/2019

The motion passed by unanimous [7-0] voice vote.

**D. Petitions from the Floor**

None were offered.

**E. Communications from the Committee**

Member Raznick was again welcomed to the Commission. Member Raznick noted he had been on the CDRC in the past. He stated he moved to Santa Fe in 1978 and has worked with the Eldorado community.

**F. Communications from the Attorney**

None were presented.

**G. Matters from Land Use Staff**

None were presented

**H. Next Planning Commission Meeting: March 21, 2019**

**I. Adjournment**

Having completed the agenda and with no further business to come before this Committee, Chair Katz declared this meeting adjourned at approximately 5:10 p.m.

Approved by:

*Charlie Gonzales*

Charlie Gonzales, Chair  
Planning Commission



SFC CLERK RECORDED 03/25/2019

*Geraldine Salazar*  
ATTEST TO:

GERALDINE SALAZAR  
SANTA FE COUNTY CLERK

Submitted by:  
*Debbie Doyle*  
Debbie Doyle, Wordswork

COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss PLANNING COMMISSION MI  
PAGES: 20

I Hereby Certify That This Instrument Was Filed for  
Record On The 25TH Day Of March, 2019 at 08:32:34 AM  
And Was Duly Recorded as Instrument # 1881830  
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office  
*E. Estrella*  
Deputy County Clerk, Santa Fe, NM

EXHIBIT  
/

EXISTING  
RESIDENCE





**SANTA FE COUNTY APPROVED NOTES AND CONDITIONS**

COUNTY LAND USE ADMINISTRATOR \_\_\_\_\_ DATE \_\_\_\_\_  
 19- \_\_\_\_\_  
 DEVELOPMENT PERMIT NO. \_\_\_\_\_  
 COUNTY RURAL ADDRESSING \_\_\_\_\_ DATE \_\_\_\_\_  
 COUNTY TREASURER \_\_\_\_\_ DATE \_\_\_\_\_  
 COUNTY FIRE MARSHAL \_\_\_\_\_ DATE \_\_\_\_\_

THE PARCEL DEPICTED HEREON LIES WITHIN THE RURAL ZONING DISTRICT

1. THE LANDS SHOWN HEREON ARE WITHIN THE PLANNING AND PLATING JURISDICTION OF THE COUNTY OF SANTA FE.
2. MAINTENANCE OF PRIVATE ACCESS, EASEMENTS, UTILITY EASEMENTS AND/OR PRIVATE ROADWAYS IS NOT THE RESPONSIBILITY OF SANTA FE COUNTY, PUBLIC WORKS DEPARTMENT AND THE BOARD OF COUNTY COMMISSIONERS.
3. THE APPROVAL OF THIS PLAT DOES NOT CONSTITUTE THE APPROVAL OF ANY FURTHER DEVELOPMENT OR CONSTRUCTION OF ANY KIND. THE APPLICANT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND FEES. DEVELOPMENT PERMITS FOR BUILDING CONSTRUCTION WILL NOT BE ISSUED UNTIL REQUIRED IMPROVEMENTS FOR ROADS, FIRE PROTECTION, TERRAIN MANAGEMENT, AND DRAINAGE ARE COMPLETED AND APPROVED.
4. ACCORDING TO FEMA FLOOD INSURANCE RATE MAP (FIRM) COMMUNITY PANEL NO. 350445007500, DATED JUNE 17TH, 2008, THIS PROPERTY LIES OUTSIDE THE LIMITS OF THE 100-YEAR (1%) FLOODPLAIN, IN ZONE X. THIS DESIGNATION DOES NOT GUARANTEE THAT THE PROPERTY WILL BE FREE FROM FLOODING OR FLOOD RELATED DAMAGES.
5. ENTIRE LOT IS BUILDABLE WITH SLOPES OF LESS THAN 15%.
6. THE TRACTS, PARCELS AND/OR LOTS SHOWN HEREON ARE INSIDE THE HIGH HAZARD AREA OF THE URBAN WILDLAND INTERFACE ZONE AS DETERMINED BY THE SANTA FE COUNTY FIRE DEPARTMENT. FIRE SPRINKLERS MAY BE REQUIRED.
7. WATER USE ON THESE TRACTS, PARCELS AND/OR LOTS IS RESTRICTED BY COVENANTS FILED IN THE OFFICE OF THE COUNTY CLERK AND RECORDED AS INSTRUMENT NO. \_\_\_\_\_ ANNUAL WATER USE IS RESTRICTED TO .025 ACRE FEET PER YEAR PER LOT.

**SPECIAL NOTES AND BUILDING PERMIT CONDITIONS**

1. THE INSTALLATION OF AN AUTOMATIC FIRE SUPPRESSION SYSTEM IS HIGHLY RECOMMENDED FOR ALL HOMES ON ALL LOTS
2. THE PARCELS, LOTS, OR TRACTS PLATTED HEREON ARE SUBJECT TO CHAPTER 7, SECTION 7.17, AND ORDINANCE 2008-10, AS WELL AS ALL PERTINENT COUNTY CODE AND ORDINANCES AT THE TIME OF DEVELOPMENT.
3. THESE LOTS ARE SUBJECT TO SANTA FE COUNTY FIRE AND RESCUE IMPACT FEES AT THE TIME OF APPLICATION FOR DEVELOPMENT PERMIT.
4. NEW DRIVEWAY/ROADWAY ACCESS FROM DANCING HORSE IS SUBJECT TO APPROVAL BY THE SANTA FE CO. PUBLIC WORKS DEPT AND COUNTY FIRE MARSHAL.
5. DEVELOPMENT PERMITS FOR BUILDING CONSTRUCTION WILL NOT BE ISSUED UNTIL REQUIRED IMPROVEMENTS FOR ROAD AND EMERGENCY TURN-AROUND ARE COMPLETED AND APPROVED BY STAFF.

BOUNDARY SURVEY FOR  
**ESTATE OF ALEXANDER**  
 OF  
 PROJECTED SE1/4, NE1/4, NW1/4, SEC. 9,  
 T.13N., R.7E., N.M.P.M., SANTA FE COUNTY, NM.

PURPOSE: TO ACKNOWLEDGE A LEGAL LOT LYING WITHIN PROJECTED SECTION 9, T13N, R7E, N.M.P.M. SANTA FE COUNTY, NEW MEXICO.

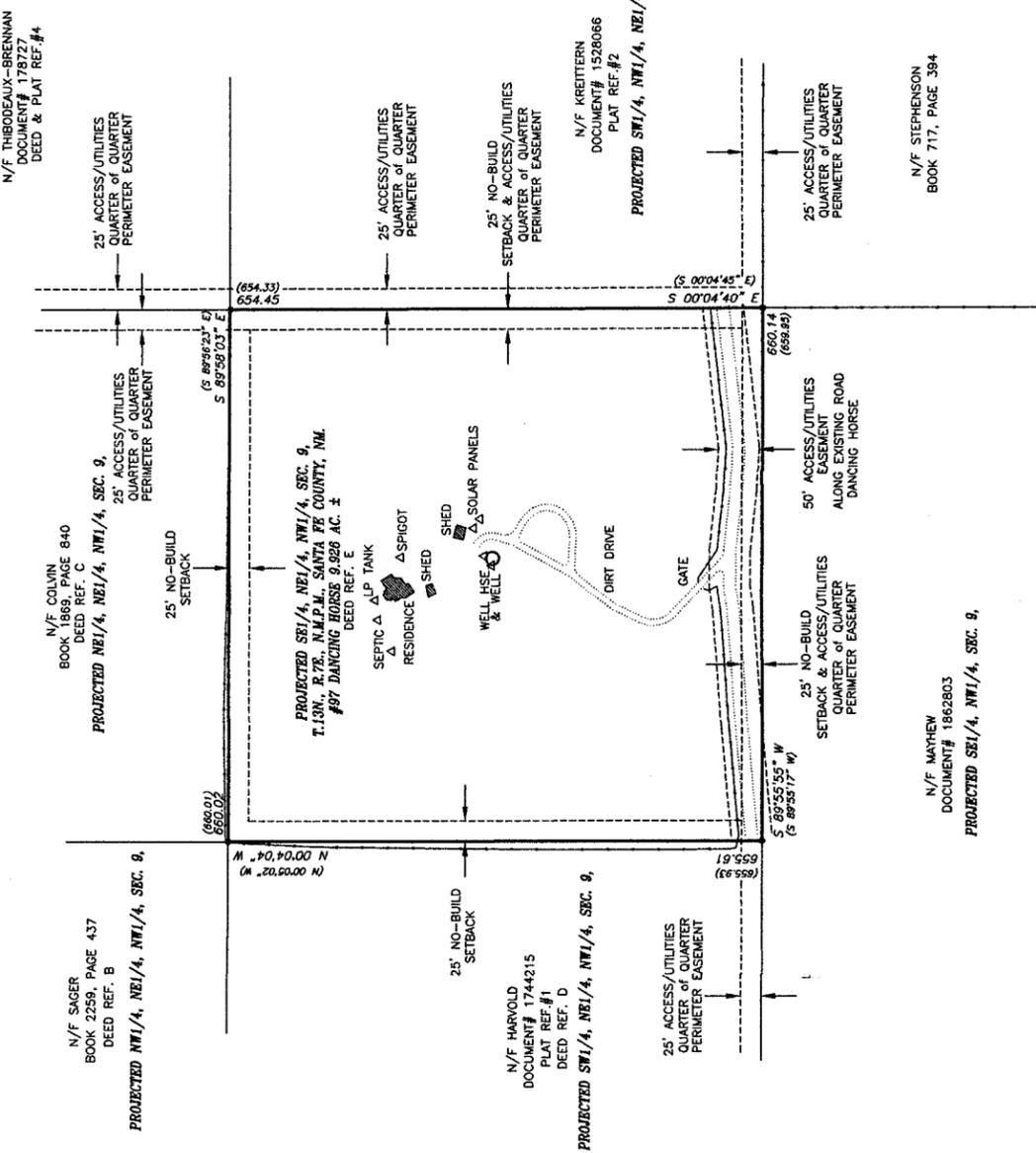
**RICK CHATROOP**  
**PROFESSIONAL LAND SURVEYOR**  
 NEW MEXICO REGISTRATION NO. 11011  
 (505) 470-0057 110 WAGON TRAIL ROAD CERRILLOS, NM 87010

INDEXING INFORMATION FOR THE COUNTY CLERK  
 OWNER: ESTATE OF ALEXANDER UPG#1-039-077-495-423  
 LYING WITHIN PROJECTED SECTION 9, T13N, R7E, N.M.P.M.  
 LOCATION: SANTA FE COUNTY, NEW MEXICO.

**OWNERS CONSENT**  
 KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED OWNER(S), HAVE CAUSED TO BE PLATTED THOSE LANDS SHOWN HEREON. THIS PLATTING IS MADE WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE WISHES AND DESIRES OF SAID OWNER(S).

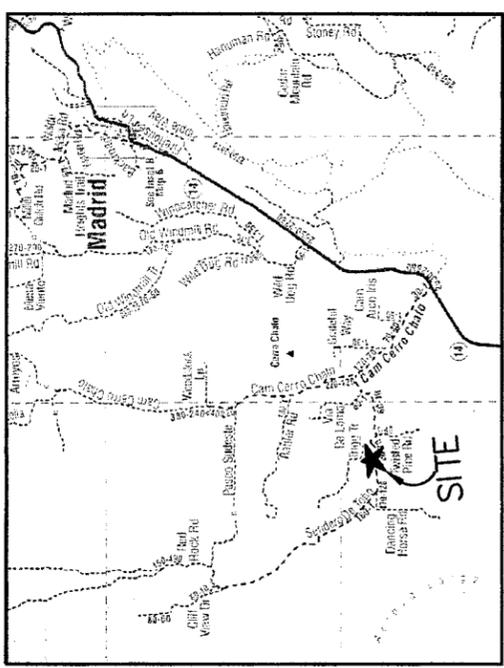
TERRENCE KEITH WALLER POWER OF ATTORNEY ESTATE OF ALEXANDER  
 STATE OF NEW MEXICO SS  
 COUNTY OF SANTA FE  
 THE FOREGOING INSTRUMENT WAS SHOWN, ACKNOWLEDGED AND SUBSCRIBED BEFORE ME BY  
 TERRENCE KEITH WALLER POWER OF ATTORNEY ESTATE OF ALEXANDER

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2019, \_\_\_\_\_ NOTARY PUBLIC  
 MY COMMISSION EXPIRES \_\_\_\_\_



**SEC 9, T13N, R7E, N.M.P.M., SANTA FE COUNTY, NM.**  
 I hereby certify that this instrument was filed for record on the \_\_\_\_\_ day of \_\_\_\_\_ A.D. 20\_\_\_\_ and was duly recorded in book \_\_\_\_\_ of the records of Santa Fe County.  
 Witness my Hand and Seal of Office  
 Geradine Salazar  
 County Clerk, Santa Fe County, N.M.

**6102/23/03/25/2019**  
 SEC 9, T13N, R7E, N.M.P.M., SANTA FE COUNTY, NM.



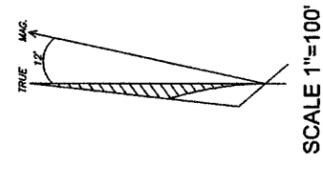
**VICINITY MAP**

- LEGEND AND NOTES**
- DENOTES POINT FOUND 5/8\"/>

- DEED AND PLAT REFERENCE**
1. BASIS OF BEARING IS FROM GPS OBSERVATION WGS 84 AND COVENANTS OF RECORD.
  2. THIS PLAT IS SUBJECT TO ANY EASEMENTS, RESTRICTIONS AND COVENANTS OF RECORD.
  3. THIS PARCEL LIES WITHIN PRIVATELY DETERMINED SECTIONS WITHIN THE ORTIZ MINE GRANT. SAID SECTIONS WERE NOT ESTABLISHED BY RECOGNIZED GOVERNMENT SURVEYS.

- Chronological order of conveyance
- A. Original 40 ac. NE1/4, NW1/4, sec. 9, created by pre-code Warranty Deed J.W.M. Assoc. to Cohen dated 3/05/79 (attachment #1) recorded book 713, pg. 278, follow-up Deed recorded 3/29/81 (attachment #2) recorded book 715, pg. 787.
  - B. Original 10 ac. NW1/4, NE1/4, NW1/4, sec. 9, created by pre-code Warranty Deed Cohen to Calvin/Mattel/Sager dated 7/15/80 (attachment #8) recorded book 833, pg. 307, followed by Real estate Contract Cohen to Calvin/Mattel/Sager dated 7/30/80 (attachment #9) recorded Book 403, pgs. 501-523, followed by Warranty Deed Calvin/Colvin(formerly Mattel) to Sager dated 11/08/02 (attachment #7) recorded book 2259, pg. 437.
  - C. Original 10 ac. NE1/4, NE1/4, NW1/4, sec. 9, created by pre-code Warranty Deed Cohen to Walker dated 6/01/80 (attachment #1) recorded 10/12/80 book 897, pg. 157, followed by Warranty Deed Calvin to Calvin dated 3/02/01 (attachment #10) recorded book 1685, pg. 840.
  - D. Original 10 ac. SW1/4, NE1/4, NW1/4, sec. 9, created by Warranty deed Cohen to Widney dated 1/23/81 (attachment #6) recorded 10/04/83 book 975, pg. 548 determined to be valid evidence of intent to convey prior to adoption of county land use code in meeting with Penny Ellis Green prior to this application. Followed by Warranty Deed Whitfield to Whitfield dated 8/22/14 (attachment #5) recorded instrument# 1744215.
  - E. Original 10 ac. SE1/4, NE1/4, NW1/4, sec. 9, created by Warranty Deed Cohen to Waller/Wening/Alexander dated 3/10/83 (attachment #3) recorded book 712, pg. 292, followed by Quit Claim Deed (attachment #4) dated 12/17/15 and recorded instrument# 1782514.

1. PLAT ENTITLED "BOUNDARY SURVEY PLAT FOR REBECCA NAFAY AND SCOTT POLLY" BY MICHAEL V. TRUJILLO N.M.P.L.S.#12130 AS FILED IN PLAT BOOK 653, PAGE 025 IN THE OFFICE OF THE SANTA FE COUNTY CLERK.
2. PLAT ENTITLED "BOUNDARY SURVEY PLAT FOR CLAY A. SHEFF AND CYNTHIA C. SHEFF" BY MICHAEL V. TRUJILLO N.M.P.L.S.#12130 AS FILED IN PLAT BOOK 652, PAGE 039 IN THE OFFICE OF THE SANTA FE COUNTY CLERK.



**SURVEYORS CERTIFICATE**  
 I HEREBY CERTIFY THAT THIS PLAT AND THE NOTES HEREON ARE AN ACCURATE DELINEATION OF A FIELD SURVEY COMPLETED BY ME OR UNDER MY DIRECTION ON FEB. 13TH, 2019, AND ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND MEET THE STANDARDS FOR PROFESSIONAL LAND SURVEYORS PRACTICING IN NEW MEXICO.

RICHARD A. CHATROOP N.M.P.L.S. #11011  
 COUNTY CLERK, SANTA FE COUNTY, N.M.