

December 27, 2012

County Commissioners

CDRC CASE 3 V 12-5300

We are writing in reference to John & Virginia Kraul, they are asking for a variance to allow two dwellings units on their 0.90 acre. Their property is located at #05 and #07 Camino La Llorona, in the Historical Village of Canada de los Alamos.

On October 18th 2012 we submitted a letter along with pictures and exhibits to the County Development Review Committee .The letter and items where addressed to CDRC as well as to the County Commissioners.

We asked John Lovato if all our material would be given to Commissioners for the December 11th 2012 hearing , he assured us that they would be.

On December 11th two hours before the hearing we found out that the Commissioners had not review our material, or our exhibits. We felt we did not get the opportunity to present our material and exhibits to the Commissioners as we did to the CDRC.

At the County Commissioner's meeting on December 11, 2012. John & Virginia presented a petition , they stated that all the people who had originally signed our petition had signed theirs . This is not accurate as only 6 people did. They got 14 signatures compared to our 34 signatures .
(Exhibit A, 6 pages)

John also stated at the December's meeting that Miquela couldn't live with them because Miquela waned to live alone and have her privacy. John & Virginia have a legal permitted studio at #05 Camino La Llorona that Miquela could live in. But, instead they have that studio rented out as a storage unit to Cody Potter .

(at one time he lived there) Cody has a semi trailer in the yard 3 to 4 times a year. Cody own/run Guadalupano Imports at 111 Water Street. He stores his inventory there. Although John denied renting it at the December 11th meeting. (Exhibit B, 2 pages)

We sympathize with Miquela situation . But , we feel Miquela didn't have to be in this unfortunate situation. Miquela had her property (inheritance)



34

where she had her home. Miquela gave her inheritance to John & Virginia's daughter Amanda Kraul Rodriguez. (Exhibit C, 2 pages)

We reside at 6C Camino La Llorona, we are the property owners of 6A Camino La Llorona and 6B Camino La Llorona all legal lots, we also own another property at 08 Chavez Trails which is directly behind John & Virginia's property, and across their daughters property Amanda Rodriguez. If other people owned these properties they as well would be here with the same concerns we have. (Exhibit D, 2 pages)

We feel that John & Virginia should not be allowed to have two dwellings on their property for the following reasons.

We feel their property is too small 0.90 acre to accommodate all these structures already on the property. (their residence, studio, 2 car garage, the ½ single wide trailer, their accessory structure that they are asking for a variance.)

This does not include the easement or their hammer head turn around which leaves them with even less usable property. This lot is the first lot out of 7 lots. (Exhibit E)

Because the property is so small for all this existing structures it is very congested and difficult to drive though. Cars are pulling out of all directions, it is congested with vehicles, with their own vehicles (5 cars, and their fifth wheel trailer) and when they have visitors, including Miquela's vehicle. John also works on other peoples cars out of his garage, making it very difficult and dangerous to drive though especially in the winter time or when the weather is bad. This lot is the first lot of 7 lots. (Exhibit F, 2 pages)

In March of 1998, John & Virginia obtained a permit for an accessory structure. A permit is valid for two years from the day it was issued.

But , John & Virginia did not put the structure in 1998 nor did they in 1999 or even in 2000 they let the permit expire.

We have enclosed an Aerial photograph obtain from Santa Fe County from 2001 and it does not show the structure on the premises . We have also included a picture taken from my camcorder when we were having our

easement surveyed on November 11, 2003 and the accessory structure was not there. (Exhibit G)

Ever since John & Virginia put that structure there it has never been used as a accessory structure, it was used as a dwelling unit from the start. They have had people living in it from the time they put it there, they had it rented, and at one time Amanda and her then boyfriend Ruben lived in it before Miquela started living in it.

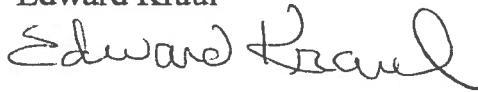
In October 7, 2011 , John received a Notice Of Violation for the accessory structure because it was being used as a dwelling unit , John was told that no one should be living in it , he was also told that the mobile home (next to his garage) could not be used as a storage unit and that it must be removed . We are confused as to why it is still there. (Exhibit H , 2 pages)

Although this violation was issued on October 7, 2011 Miquela still continued to live in the unit , pictures taken in September 2012. (Exhibit I , 2 pages)
As for the mobile home that is being used as storage (by his garage) is still there , in the October 7th Notice Of Violation it says that it must be removed

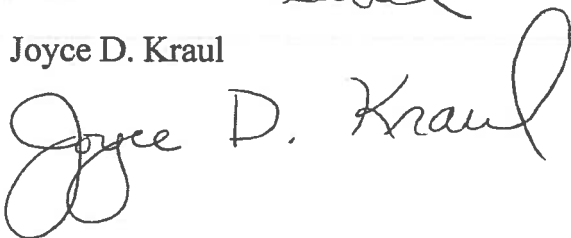
We ask that you would consider our concerns not just as one property owners but as four property owners.

Thank You

Edward Kraul



Joyce D. Kraul



December 27, 2012

CASE # V 12-5300

At the County Commissioner's meeting on December 11, 2012. John & Virginia presented a petition, they stated that all the people who had originally signed our petition had signed theirs . This is not accurate as only 6 people changed their minds and signed theirs. They had a petition with 14 people.

We have enclosed our petition and after subtracting the 6 people who changed their minds and signed theirs , we were left with 33 signatures who are against this variance.

Exhibit (A) 37
1 of 6

Phone:

PETITION

This petition is signed by residence of Canada de los Alamos and neighboring residence. Against posted permit #V12-5301 for John and Virginia Kraul variance to allow a two dwelling on 0.90 acre, after excluding their easement they have a .688 acre lot which does not exclude the emergency turn around easement. Which is 20 feet wide by 76 feet long. Leaving them with a less than half an acre.

This property has 2 dwellings, 1 studio, 1 structure, 1 two car garage (shop).

This property is the first lot of 7 lots. It has the main easement through it, it is very congested and difficult driving through it especially during the winter months.

Name

Address

Date

EDWARD KRAUL 66 CAMINO LA LLORONA 10-2-12

Zachary Love 6A Camino La Llorona 10/2/12

Amos Holdsworth 60 Canada Village Rd 10/2/12

Richard Heppert 59 Canada Village Rd

Eddie P. P. 39 Canada 11/11

The signatures highlighted (6) are the people we have subtracted from our list that changed their minds and signed John & Virginia's petition. Leaving us with 33 signatures against John & Virginia's variance.

Petition Against permit for John and Virginia Kraul
#V12-5300

Name	Address	Date
Laura Dean	49 Cañada Village Rd	10-4-12
Rose Nunez	39 Cañada Village Rd. SF	10-4-12
Jeressita Rivera	83 Two Trails Rd. SF	10/4/12
Robert Abeyta	7638 Old SF Trl.	10-4-12
Barbara Abeyta-Ratiff	7638 Old SF Trl.	10-4-12
Chavez Hernandez	7635 Old Santa Fe Trail	10/4/12
Scott Kuiper	35 Cañada de los Alamos	10.4.2012
David Birnbaum	7727 Old SF Trail	10/4/12
Russell Boyd	7741 N Old SF Trail	10/4/12 & 10/5/12
Lucy L. Birnbaum	7741 BOLD SF Trl.	10/5/12
Chris Chavez	CA Chavez Trail	10/5/12
George M. Bachicha	50 Cañada Village Rd. SF, N.M.	10/5/12

Petition Against permit for John and Virginia Kraul

#V12-5300

Name	Address	Date
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Al. Eglar	04 SALAS Ln. S.F.	10-5-12
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Khira Kops	20 Canada Village Rd SF	10/6/12
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Danielle Charlier	24 Canada Village Rd	10/6/12
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Reuben Rinn	60A Canada Village Rd	10/8/12
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L. Blake Emerson	46 QUARTZ TRAIL	10/8/12
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This man lives at 741 W. Manhattan and lives in Canada de los Alamos as well.

Ben Joyce	741 W. MANHATTAN AVE. S.F.	10/8/12
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Dorothy Dean	26 Quartz Tr	10/8/12
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Phil Carter	26A QUARTZ TRAIL	10/8/12
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Kang Bannard	4 B Salas Ln. S.F.	10/8/12
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Chitra M. Gulis	40 Canada Village Rd	10/8/12
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Katherine Mor	61 Canada Village Rd	10/8/12
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Siegfried	Carl Canada Village	
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Paul Jones	Wild Turkey Way	10/5/12
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Petition Against permit for John and Virginia Kraul
#V12-5300

Name

Address

Date

Road Bann 3 La Posta Way 10/9/2012

Tim Bann 63 Canada Rd 10/10/12

Robert Bann 55 Canada 10/10/12

Walter G. Bann ^{ph.D} 135 Canada Village Rd 10/17/12

Todd Hochman 135 Canada Village Rd 10/17/12

Jim Smith 193 CANADA VILLAGE RD. 10/17/12

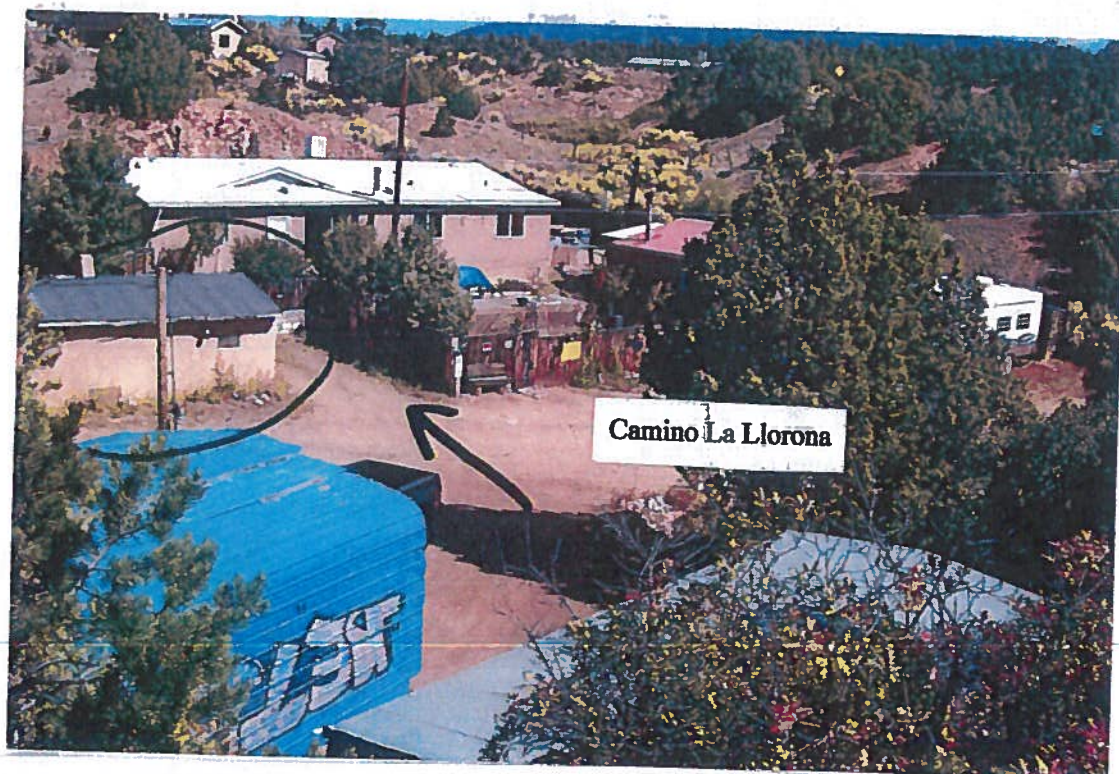
George S. Smith 136 Canada Village Rd 10/17/12

R. G. Geller 51 CANADA VILLAGE RD 10-17-12

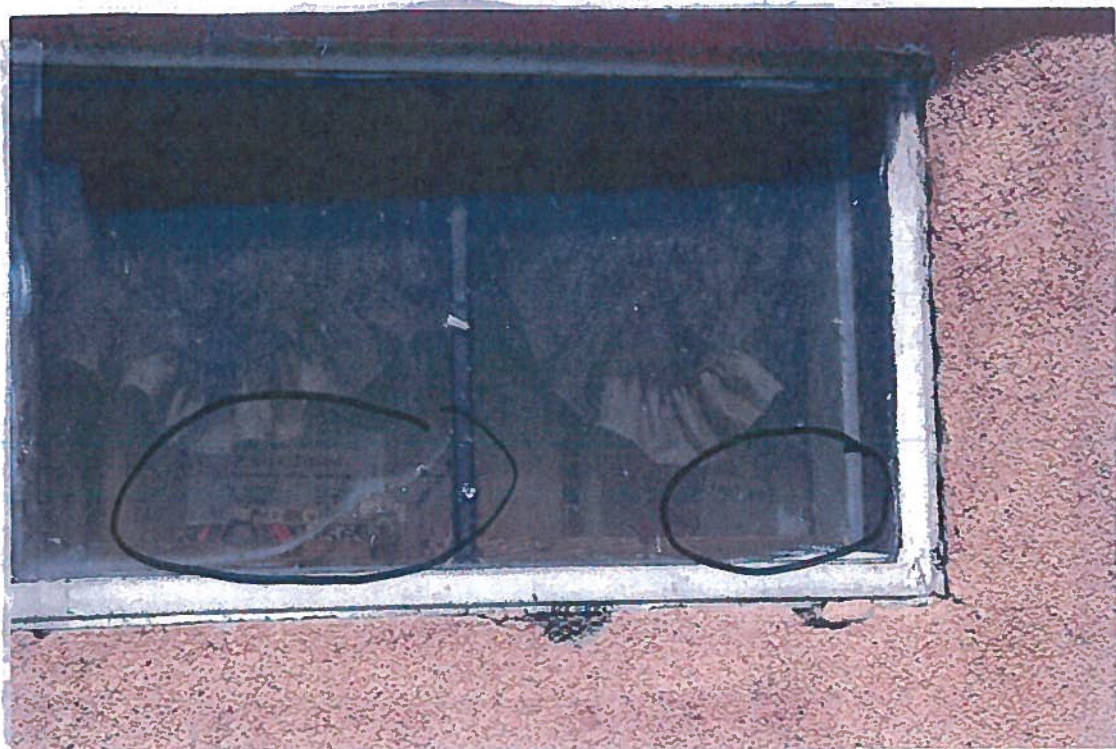
call me for
meetings!
983-7548
467
9696



Cody parks a 40 foot semi trailer 3 to 4 times a year that encroaches Camino La Llorona.



John & Virginia rent out their studio (05) to Cody Potter, Cody owns/runs Guadalupano Imports on 111 Water St. and he stores his inventory there. (arrow shows where he parks the semi tractor)



This picture shows the boxes of inventory that Cody stores there.



This was Miquela's house before she gave her property away.

SFC CLERK RECORDED 02/09/2011

PERSONAL REPRESENTATIVE'S DEED

Miguelita RR Martinez, personal representative of the estate of
Felix G. Martinez, deceased, appointed on 2-8-2011
by the Probate Court, County of Santa Fe, State of New Mexico, Probate No. 2011-001
grants to Miguelita RR Martinez whose address is 08 CAMINO
La Llobona Santa Fe N.M. 87505, as sole and separate estate, all of the
interest of the estate of Felix G. Martinez, deceased, in and to the real
estate located in Santa Fe County, New Mexico and described as follows:
(legal description)

All of Tract 3 as shown on plat Survey
No-80-1298 c" and Recorded In the office
plat Book 398 a Page 22
Section 27, T16N R16E N.M. P.M.
Santa Fe County N.M.



DATED: 2-9 2011

The Estate of Felix G Martinez Deceased

By: Miguelita RR Martinez
Personal Representative

STATE OF NEW MEXICO)
COUNTY OF Santa Fe)

ss.

The foregoing instrument was acknowledged before me this 9th day of Feb,
2011

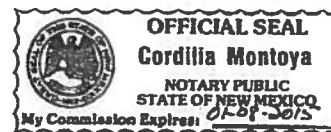
COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss. PERSONAL REPRESENTATIVE
PAGES: 1

I Hereby Certify That This Instrument Was Filed for
Record On The 8TH Day Of February, 2011 at 04:33:26 PM
And Was Duly Recorded as Instrument # 1626283
Of The Records Of Santa Fe County

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

Cordilia Montoya
Notary Public

My Commission Expires: 01-08-2015



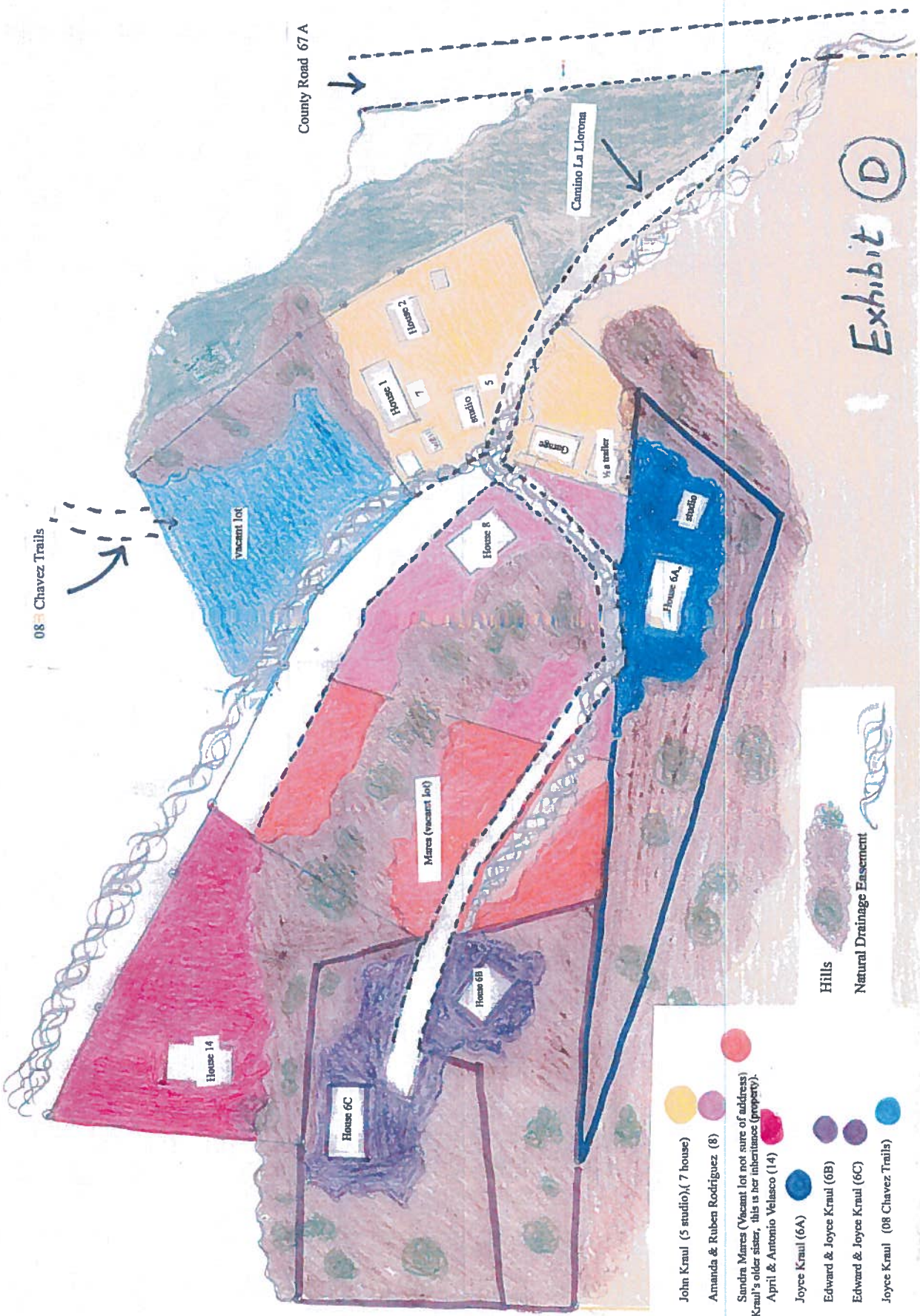
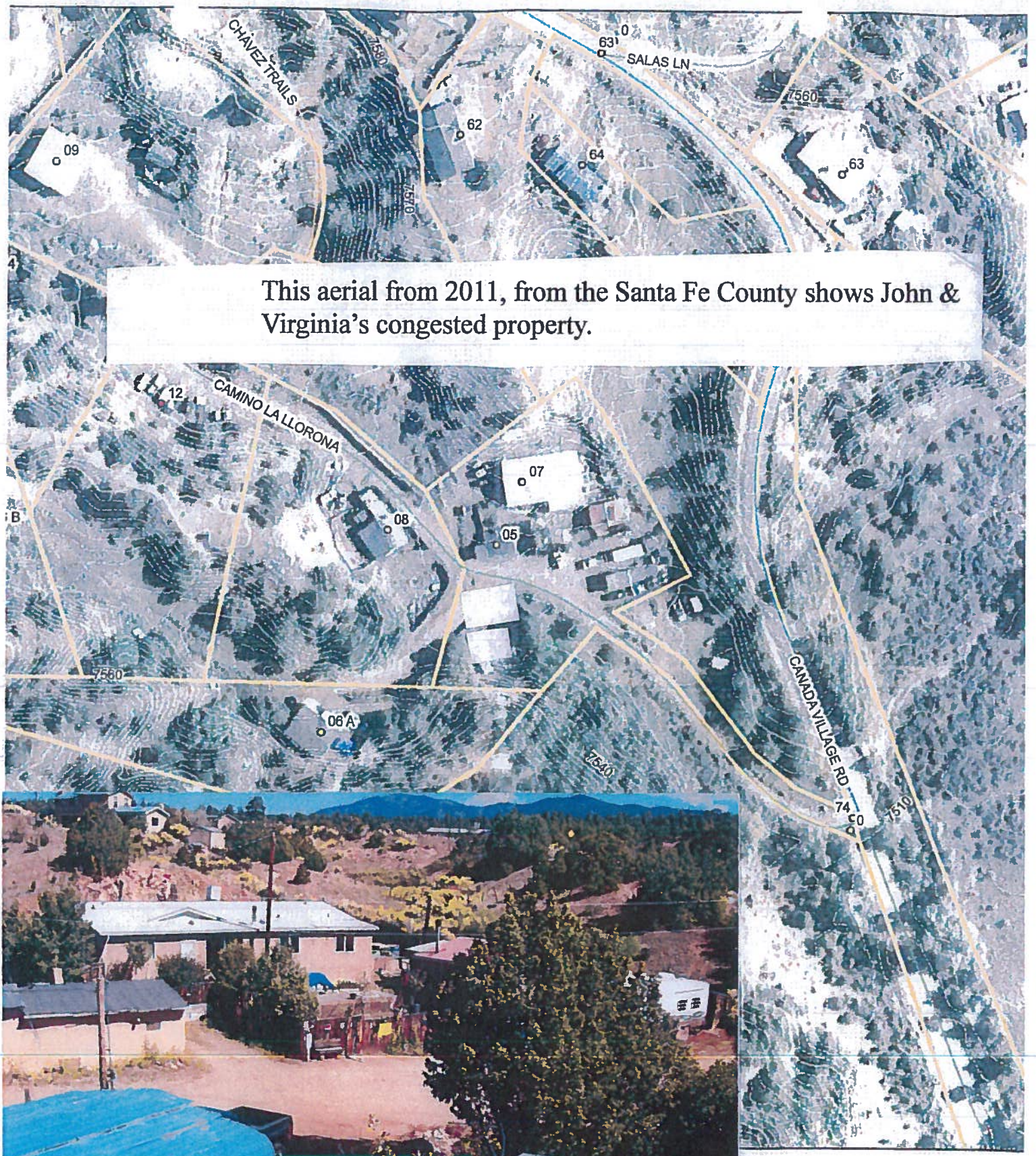


Exhibit D

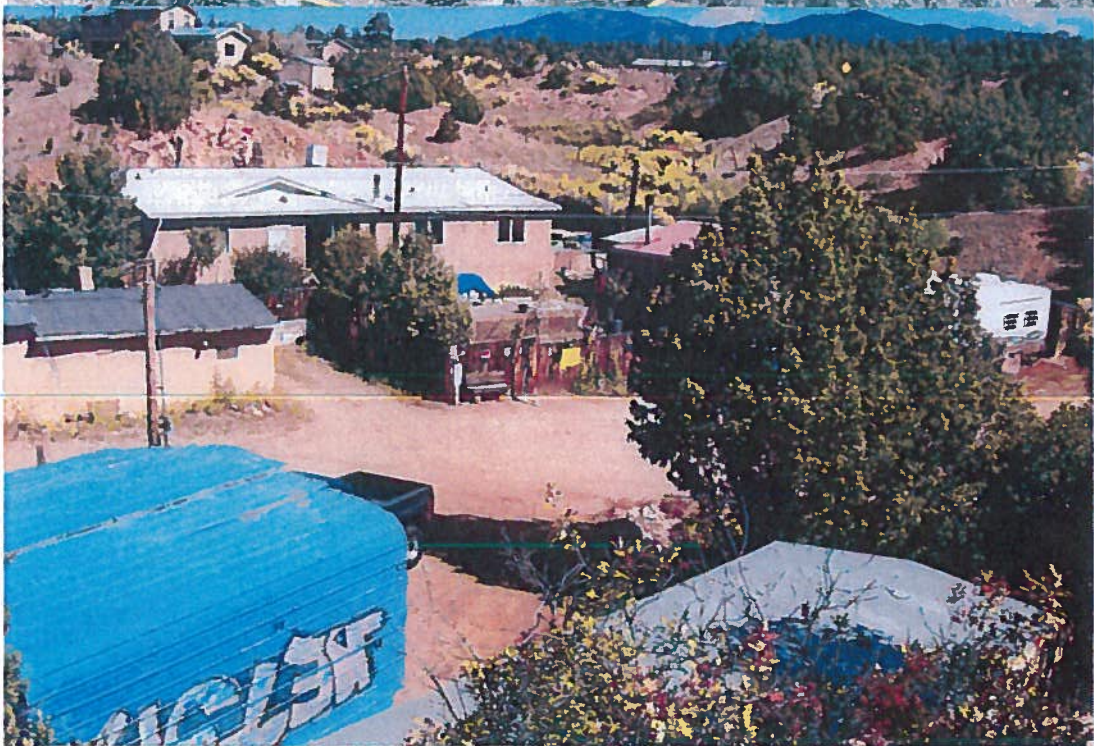


This picture show the back of John & Virginia's property that is next to our 08 Chavez Trials property.



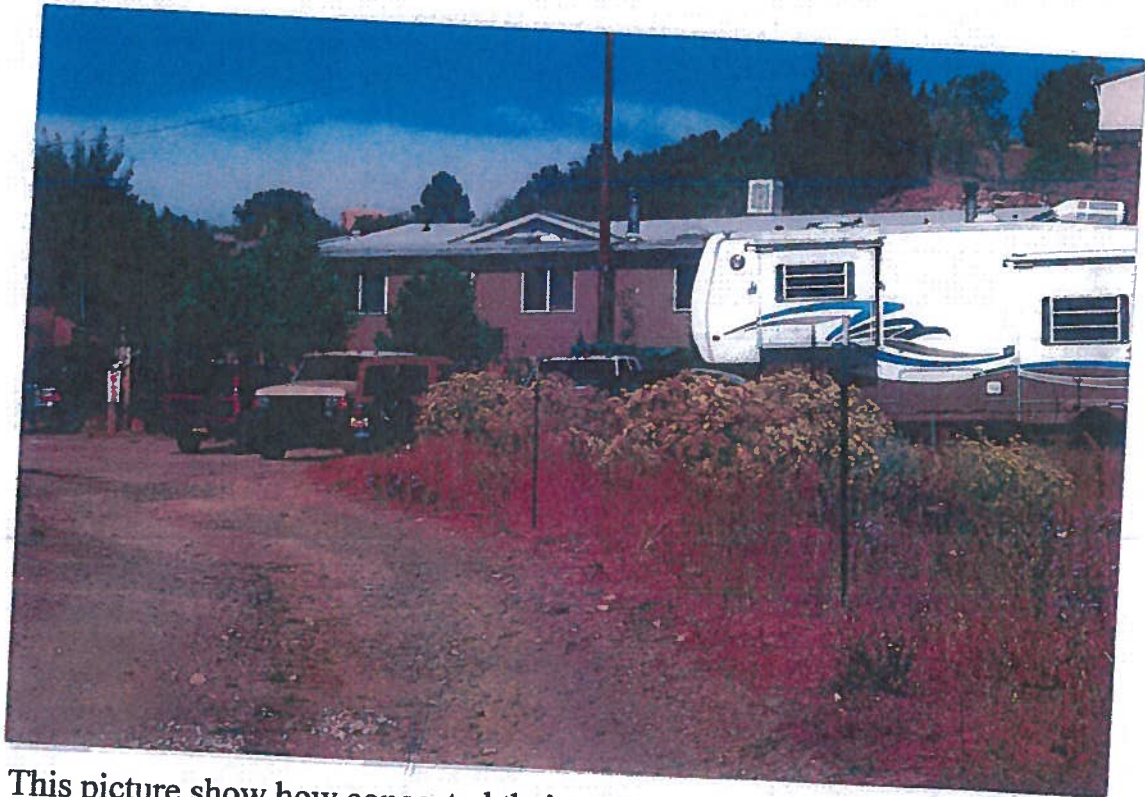


This aerial from 2011, from the Santa Fe County shows John & Virginia's congested property.



March 21, 2011
125 250 49

Exhibit (E)



This picture show how congested their property is with vehicles as well as with their structures. Their property is totally congested including their emergency turn around.



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Exhibit (F) 1 of 2



This pictures show that John & Virginia don't have enough room to park their vehicles, they are constantly parking on their emergency turn around.





This is a picture we took with our camcorder when we were getting our property (easement) surveyed on November 11, 2003 and it does not show the accessory structure (dwelling that they say they acquired a permit for in October 1998.



2001 Aerial photograph from Santa Fe County
Structure is not there.



November 6, 2012 53

Aerial Photography from 2001
Contour Interval 2 Feet
North American Vertical Datum 1988
This information is for reference only.
Santa Fe County assumes no liability for
errors associated with the use of these data.
Users are solely responsible for
confirming data accuracy.

Exhibit G

Legend

Subject Property

- Parcel (blue outline)
- Road (yellow line)

FEMA Flood Zones - 2008

- 0.2 % Annual Chance Flood Hazard (blue)
- Zone A (No BFEs Determined) (light blue)
- Zone AE (light blue)
- Floodways (dark blue)





NOTICE OF VIOLATION

THIS BUILDING AND OR PROPERTY HAS BEEN INSPECTED AND IS IN VIOLATION OF SANTA FE COUNTY ORDINANCE:

☒ LAND DEVELOPMENT CODE

☒ UNPERMITTED DEVELOPMENT

1996-10 ART. 2 SEC. 2

☐ JUNK VEHICLES

1993-6 ART. 2 SEC 2

☒ ANTI-LITTER

1993-11

☐ TERRAIN MANAGEMENT

1996-10 ART. 7 SEC. 3

☐ OTHER _____

☐ BUSINESS REGISTRATION

1992-3

☐ LIGHTING ORDINANCE

1996-10 ART. 3 SEC. 4

☐ RV ORDINANCE

1996-11

☐ PUBLIC NUISANCE

2009-11

☐ OTHER _____

YOU HAVE (5) FIVE WORKING DAYS TO CONTACT THE COUNTY AND MAKE ARRANGEMENTS TO CORRECT THE VIOLATION OR LEGAL ACTION WILL BE NECESSARY. ☐ STOP WORK ORDER

PERSON/LOCATION: John Kraul #08 Camino La Uona SF, NM

COMMENTS: Accessory structure can not be used as a dwelling unit. Carport
Needs to be permitted by SF County. Mobile Home can not be used
as a storage unit. Must be removed. All litter & debris must be removed from
property.

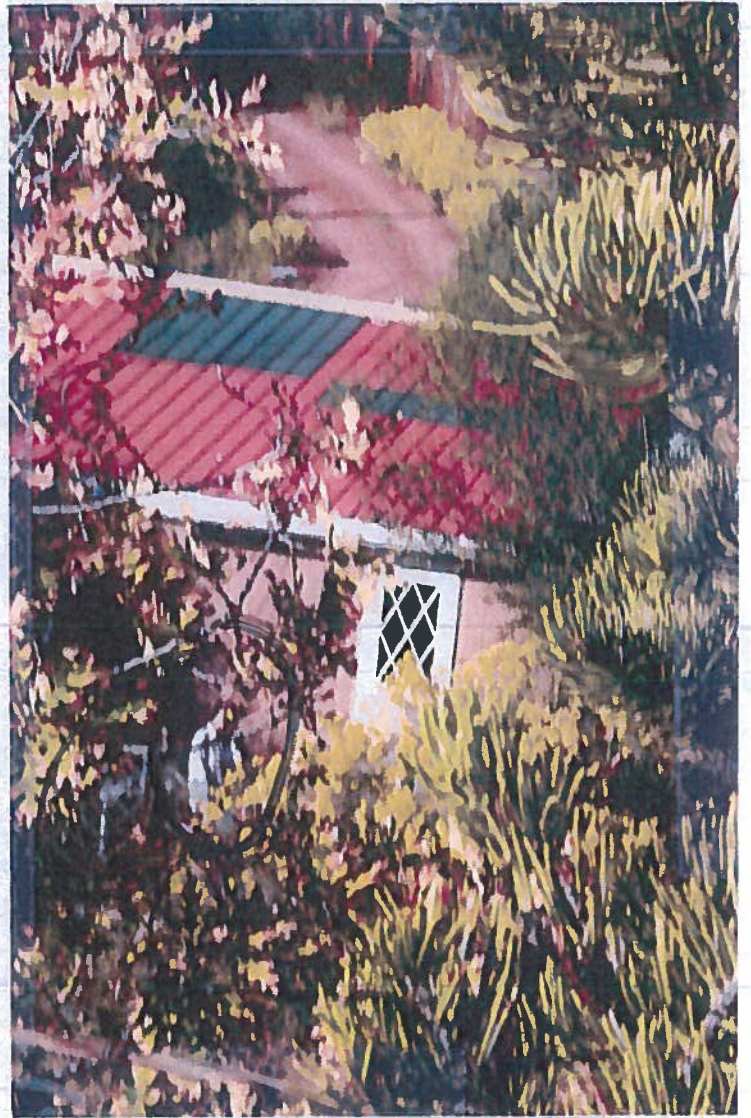
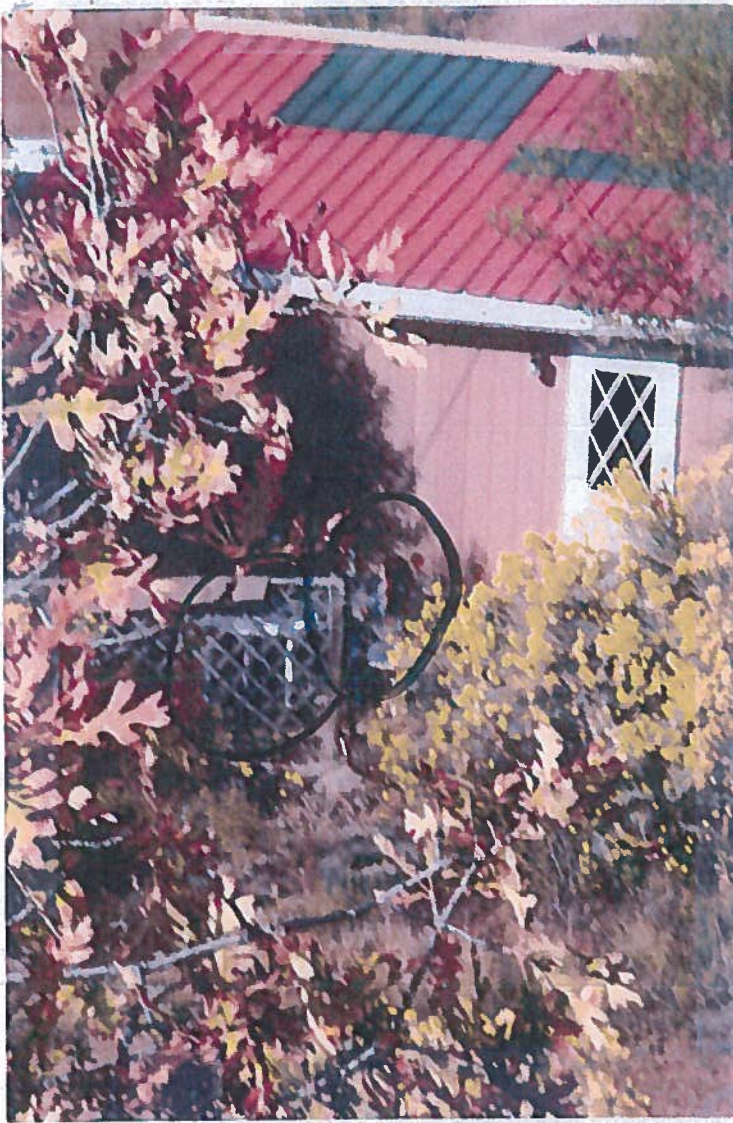
DATE: 10-7-2011

INSPECTOR: M. Roman 986-6382

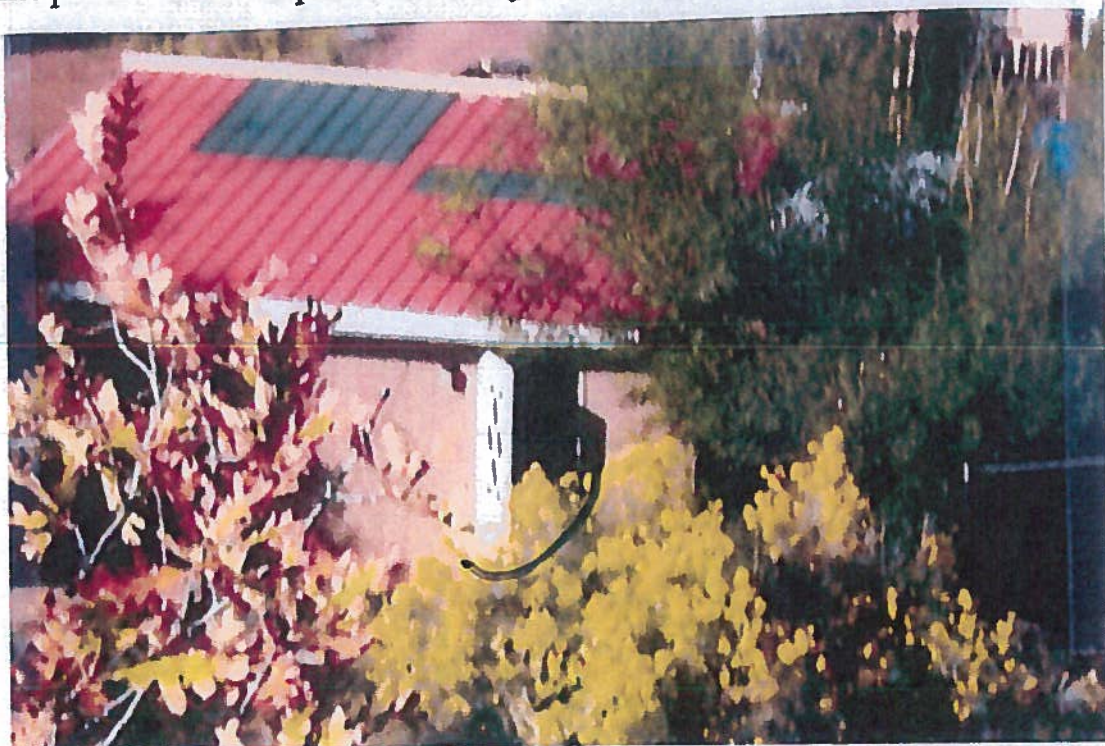
Exhibit (H) 54



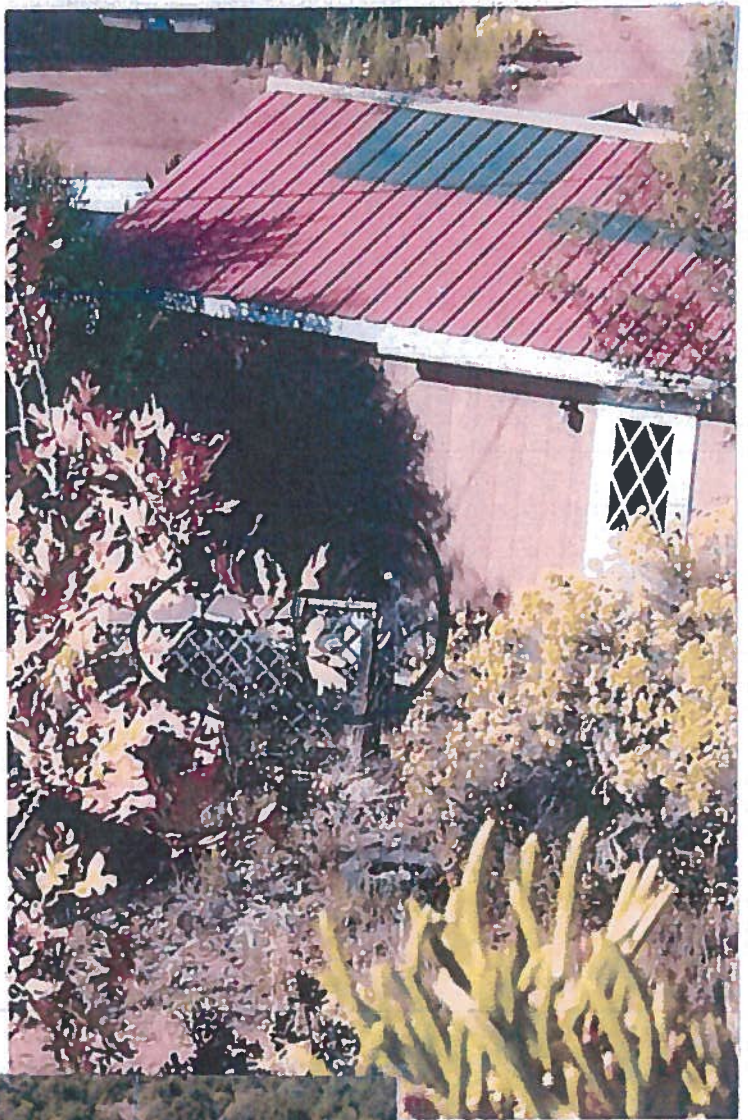
This is a picture of the mobile home that is used as a storage unit, the county issued a violation on October 7, 2011 and stated it must be removed.



This picture show Miquela still living in this structure as of September 2012



56
Exhib
I



57

Dated in the back of picture.

December 8, 2012

County Commissioners

CDRC CASE 3V 12-5300

We are writing in reference to John & Virginia Kraul, we are asking for variance to allow two dwellings units on our 0.904 acre. The property is located at 07 Camino La Llorona.

Track 4 a Family Transfer Land Division recorded October 2, 1998 From Edward W. Kraul & Patricia Ann Gilbo Kraul (Book 398 Page 22). At this time John Kraul & Miquela Kraul Martinez got their inheritance (property). (Exhibit A)

As per petition signed by Canada de Los Alamos and neighboring residence against posted permit # V 12-5300 was signed under false pretenses. After speaking to persons who signed the petition for Edward Kraul we have acknowledged each individual regarding the situation in this matter and they have agreed to sign a new petition against Edward & Joyce Kraul's previous petition. In speaking to the listed petitioners we have found that individuals that have previously sign our residence located in the Santa Fe area but are not within the Traditional Community of Canada de Los Alamos.

This documentation will be submitted on December 11, 2012.

Thank you for your time in the matter.

John H. Kraul

Virginia A. Kraul

Virginia A. Kraul
John H. Kraul



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PETITION IN FAVOR OF JOHN AND VIRGINA KRAUL

Name : Address: Date: Phone:

Rose Noriega 39 Canada Village Rd 57 Dec 8-12 982-3274
 Bertha Nieto 39B Canada Village Rd. 12-8-12 5720069
 Edeline Noriega ' ' ' '
 Edmundo Noriega ' ' ' '
 Ah Eglar 07 B Salas Rd. 984-1794
 Rachele / Baca 55 Canada Village Rd 986-9008
 Gabriel Garcia #2 Los Georges 982-4105
 JOE A GARCIA 123 CANADA Village Rd 471-3553
 JUAN MOYA ~~CANADA~~ CANADA Village
 GEORGE D. GARCIA #2 LOS GEORGES Rd.
 [unclear] 64 Canada Village
 [unclear] (11/17)
 [unclear] 62 Canada Village 984-9130
 Fredman Men 121 Canada Vly Rd (Did not know dwelling existed)
 Otilio Piresco 14 camino LA Llorona Santa Fe NM



①

Ensement



②

turn
Around



③

07 property
+ turn
Around

60

V. APPROVAL OF THE MINUTES: September 20, 2012

Member Martin moved to approve the minutes as published. Her motion was seconded by Member Katz and passed by unanimous [6-0] voice vote.

VI. CONSENT FINAL ORDER

- A. CDRC CASE # APP 12-5110 William Frederick Wagner Appeal.
William Frederick Wagner, Applicant, (Sommer, Karnes & Associates, LLP), Joseph Karnes, Agent, Requested an Appeal of the Land Use Administrator's Decision to Deny a Family Transfer Land Division (Case # 11-3090) Of 31.824 Acres Into Two Lots; One Lot Consisting of 20.990 Acres and One Lot Consisting Of 10.834 Acres. The Property is Located At 45 La Barbaria Trail, Within Section 9, Township 16 North, Range 10 East, (Commission District 4). Denied 4-3, Wayne Dalton.

Member Martin moved approval and Member Katz seconded. The motion passed by unanimous [6-0] voice vote.

VII. NEW BUSINESS

- A. CDRC CASE #V 12-5120 John & Virginia Kraul Variance. John & Virginia Kraul, applicants, request a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow two dwelling units on 0.90 acres. The property is located at 7 Camino La Llorona, within the Traditional Community of Canada de Los Alamos, within Section 27, Township 16 North, Range 10 East, Commission District 4
[Exhibit 1: Letter and petition opposing the variance]

Miguel Romero reviewed the staff report as follows:

"The Applicants request a variance of Article III, Section 10, Lot Size Requirements, of the Land Development Code to allow two dwelling units on 0.90 acres. The subject lot was created in 1998, by way of a Family Transfer. There is currently a residence, which is a modular unit, a modular unit with bath facilities which is the proposed dwelling, an accessory structure used for storage, a garage, and a proposed storage shed on the property. The proposed residence is a 625 square foot modular unit.

"In March of 1998, the Applicants obtained a permit for an accessory structure. The structure was then converted into a dwelling unit which the Applicants' sister resides in. On October 7, 2011, a Notice of Violation was issued for exceeding density. The Applicant has converted the unit back to an accessory structure which was verified through an inspection and is now in compliance with what was permitted in 1998.



"The Applicant states, a variance is needed due to his sister's medical condition. The Applicants' sister has not had an income. The Applicants claim providing their sister with an affordable place to reside would provide their sister with emotional and financial support, along with peace of mind that she will have a place to call home and will also insure she has care and support from her family in the future."

Mr. Romero said staff has reviewed the application for compliance with the code and finds the request is not in compliance with County code. Staff recommends denial of this variance from Article III, Section 10 of the Land Development Code. If the decision of the CDRC is to recommend approval of the Applicants' request, staff recommends imposition of the following conditions:

1. Water use shall be restricted to 0.50 acre-feet per year per home. A water meter shall be installed for each residence. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office (As per Article III, § 10.2.2 and Ordinance No. 2002-13).
2. The Applicant must obtain a development permit from the Building and Development Services Department for the additional dwelling unit. (As per Article II, § 2).
3. The Applicant shall provide an updated liquid waste permit for both homes from the New Mexico Environment Department with the Development Permit Application (As per Article III, § 2.4.1a.1 (a) (iv)).
4. The placement of additional dwelling units or Division of land is prohibited on the property. (As per Article III, § 10).
5. The Applicant shall comply with all Fire Prevention Division requirements at time of development permit Application (As per 1997 Fire Code and NFPA Life Safety Code).

Chair Gonzales asked when the first residence was constructed on the property. Mr. Romero said the residence was permitted in 1994 before the lot split occurred. The Chair asked if staff knew when the accessory structure was converted to a dwelling and staff response was no.

John and Virginia Kraul, applicants and Miguela Martinez, were duly sworn before the Committee. Mr. Kraul requested that the Committee help them out as all he is trying to do is help out his sister. He said there were neighbors that had smaller parcels with a couple of dwellings.

Miguela Martinez, the applicants' sister, said her husband, a Viet Nam veteran, died and since that time she has been "really lost."

Referring to a petition [*Exhibit I*], Member Martin asked the applicant who Joyce and Edward are. Mr. Kraul responded it was his brother and sister-in-law.

Joyce and Edward Kraul were duly sworn. Edward Kraul asked how the Committee obtained the petition that he had submitted to staff. Chair explained that staff provided it. Edward Kraul said they have additional signatures of Cañada de Los Alamos villagers opposing the variance. [*Exhibit 2: Petition with additional signatures*]

Joyce Kraul said they were in opposition to the variance request because the lot is extremely small, contains a great many vehicles and creates a safety issue for the other residents in the area. She said the applicants' lot is the first one on a road that serves seven lots.

Edward Kraul said the 1998 recorded plat locates a studio, septic system and well in different locations than the packet information provided. He said he has four lots all adjoining the that of the applicants. Three of his lots have a dwelling and one is vacant. Speaking as a Cañada resident since 1958, he said the lots are not adequate to handle more than one dwelling. Joyce Kraul added that there are smaller lots in Cañada that are grandfathered in.

Edward Kraul said the people that signed the petition are particularly concerned about the septic system which is 500 yards from the community well.

Edward Kraul said he acquired his property in 1978 and the applicants acquired theirs in 1998. He explained that he purchased properties in 1981, 2004 and 1997.

Amada Kraul Rodriguez and Gabriella Villas, both residents of La Llorona were duly sworn. Ms. Rodriguez said they both live across from the property and the roads are perfectly fine. She said her aunt, Miguella Martinez, gave her the property she lives on.

Ms. Villas said she got her property from her uncle and has two kids. She said she feels her children are safe and the road is not an issue.

In response to Member Katz' question of how they acquired their properties, Ms. Rodriguez said her grandfather and grandmother deeded the properties to their children and she received it from her family. Ms. Villas received hers from her uncle.

There were no other speakers on this case.

Chair Gonzales remarked on the difficulty of making a determination on hardship cases. He asked staff if an approval with a time limitation could be considered.

Ms. Lucero said the code defines variance hardships as those related to topographical not financial or medical needs. The code does not address temporary variances.

Member Katz said he appreciated the applicants' desire to assist their family and said the minimum lot size within the Code, along with the opposition makes this difficult to approve. The GIS map shows the property in question to be of a far greater density than others in the area and the fact the applicants' sister gave her property away adds to the inappropriateness of the variance.

Member Katz moved to deny CDRC Case V 12-5120. His motion was seconded by Member Martin and passed by majority [4-2] voice vote with Chair Gonzales and Member Anaya voting against.

- B. CDRC CASE # V 12-5290 William Keller Variance: William Keller, Applicant, requests a variance of Section 9.8 (Mountain Special Review District Standards) to allow an addition to an existing residence to exceed 14 feet in height on 13 acres. The property is located at 20 La Barbaria Road, within the vicinity of Old Pecos Trail, Within Section 17, Township 16 North, Range 10 East (Commission District 4)

John Lovato, case manager, provided the staff report as follows:

"The Applicant requests a variance of Section 9.8, Mountain Special Review District Standards, to allow an addition to an existing residence to exceed 14 feet in height. The subject lot was created in 1996, and is recognized as a legal non-conforming lot. There is currently one dwelling unit on the property and an accessory structure/shed. The structure on the property is recognized as a legal non-conforming structure which was constructed in 1974. The proposed addition to the existing residence would exceed height requirements but would match the height of the existing residence of twenty feet nine inches.

"The proposed addition would consist of an office, a laundry room, and a walk-in master closet. Currently, the existing structure consists of a master bedroom, a master bath, a weight room, and a study area. The existing structure has a flat roof, and the proposed addition will match the existing residence. The proposed addition will be located on the eastern portion of the residence and will not be visible from any major arterial but will be visible from La Barbaria Road.

"Ordinance No. 2009-01 repealed Ordinance No. 1997-4, Extraterritorial Zoning Ordinance, with the exception of Section 9.8, Mountain Special Review District. Therefore, this Application is governed by Section 9.8 MSRD Standards which limits the height of structures with a flat roof to 14 feet and 18 feet for pitched roofs.

"The Applicant states, a variance is needed due to the addition greatly improving the usability of the residence and would accommodate more room for his aging father-in-law and provide privacy. The Applicant further states the appearance of the proposed addition is located on the eastern portion of the residence and would match the existing upper level."

Mr. Lovato stated that staff has reviewed the application for compliance with pertinent Code requirements and finds the project is not in compliance with County