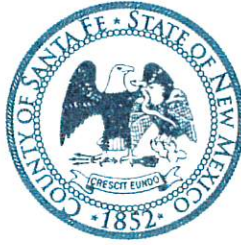


Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

DATE: November 16, 2017

TO: Santa Fe County Planning Commission

FROM: Miguel "Mike" Romero, Development Review Specialist Sr.

VIA: Penny Ellis-Green, Growth Management Director
Vicki Lucero, Building and Development Services Manager

FILE REF.: CASE # V17-5210 Ross Bee Variance

ISSUE:

Ross Bee, Applicant, JenkinsGavin Inc. Collen Gavin Agent, request a variance to the requirements set forth in the Sustainable Land Development Code (SLDC) of Chapter 7, Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow an existing roadway to exceed 9% grade and a variance of Chapter 7, Section 7.17.9.2.4 to allow disturbance of 30% slopes in six separate areas.

The property is located at 40A River Valley Rd. and is zoned Rural Residential (RUR-R) and Traditional Community (TC) within Section 32, Township 19 North, Range 10 East, (Commission District 1).

Vicinity Map:



SUMMARY:

On September 28, 2017 the Application was presented to the Hearing Officer. The Hearing Officer recommends approval of a variance of Chapter 7, Table 7-13 Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow an existing roadway to exceed 9% grade and a variance of Chapter 7, Section 7.17.9.2.4 to allow disturbance of 30% slopes in six separate areas.

The Applicant, Ross Bee, is the owner of the property at 40A River Valley Road as indicated by the warranty deed recorded in the records of the Santa Fe County Clerk on January 9, 2017, as Instrument No. 1814386.

The Applicant's intention is to construct a 2,500 sq. ft. accessory structure on his property. But, a portion of River Valley Road, (northern section of roundabout to residence) doesn't meet the off-site road requirements per Chapter 7, Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3) (Cul-de-Sac). Therefore, the Applicant is requesting a variance to allow approximately 215 feet of the existing road to remain at a grade of up to 15%, which exceeds the required 9% grade as indicated in Table 7-13. The Applicant is also requesting a variance of Chapter 7, Section 7.17.9.2.4 to allow disturbance of 30% slopes in six separate areas in order to meet the minimum two ten foot driving lanes, a (20) foot driving surface. The current SLDC allows for three separate disturbances with a maximum area of 1,000 square feet per disturbance. The Applicant's engineer has provided a Plan and Profile (Exhibit 4) for the 830 foot section of road grade and indicates the proposed areas to be disturbed along River Valley Road.

The property at 40A River Valley Rd. consists of 15.95 acres that lies within the Rural Residential and Traditional Community Zoning Districts. The property is accessed off S.R 592 onto River Valley Rd., which is identified as a private road with a (38) ft. right-of-way (ROW) that serves (4) lots.

The Applicant's agent states River Valley Road was permitted and built under the previous Santa Fe County Land Use Code and with the adoption of the SLDC, off-site roadway standards changed per Table 7-13, thus deeming River Valley Road non-complaint. Staff has determined that River Valley Rd. has never been permitted but has been in existence since November 20, 1963 (plat book 197 page 9.) The portion of River Valley Rd. from the roundabout to the Applicant's property line wasn't illustrated as a road until the recordation of an Amended Boundary Survey Plat in July, 2001 (plat book 429 page 020). In 2006 (permit# 06-807) the portion of River Valley Rd. from S.R. 592 to the roundabout was improved and built per plan by widening the road to (20) ft. adding base course and providing adequate drainage. The Applicant's engineer (Design Enginuity), along with Santa Fe County staff have confirmed that the portion of River Valley Rd. from the existing roundabout to the Applicant's driveway ranges from 10-15% grades with road widths of 12-15 ft. The Applicant's agent and engineer have asserted that the portion of River Valley Rd. from S.R 592 to the existing roundabout does meet the requirements of Table 7-13., with a (20) ft. all-weather driving surface and a (38) ft. ROW.

The Applicant's agent and engineer state maintaining the existing grades that range from 8.2% to 13.8% with a very small section at 15% will allow the rural roadway to be preserved, as well as the existing Rio en Medio crossing to the north. The Applicant's agent and engineer further state if the required 9% grade were implemented, the crossing would require (20) feet of fill and a major bridge

structure. The existing terrain and limited horizontal length of the road from the roundabout to the Rio en Medio would not allow the road to be re-engineered to lower the grades to 9%. The applicant intends to improve approximately (830) ft. of River Valley Road by widening the road to (20) ft. from the existing roundabout to the Applicant's driveway (Exhibit 4).

The remaining portion of River Valley Rd. (1,230 feet) does meet the (20) ft. wide requirement as indicated in Table 7-13. However, in order to bring the steeper portion of River Valley Rd. into compliance, disturbance of 30% slopes is necessary. The Applicant's engineer has stated that the project will result in a total of 3,117 sq. ft. disturbance of slopes in excess of 30% and that most of these slopes are manmade as indicated in the Plan and Profile (Exhibit 4). The total amount of natural 30% slopes to be disturbed is 1,180 sq. ft., which will occur in (6) locations ranging in size from 22 sq. ft. to 468 sq. ft. (Exhibit 4). Chapter 7, Section 7.17.9.2.4: Utilities, drainage structures, slope retention structures, and access roads and driveways may be located on a natural slope in excess of thirty percent (30%) so long as they disturb no more than three separate areas not exceeding 1,000 square feet each. The disturbance of manmade slopes is not regulated by the SLDC.

Staff Response:

River Valley Road is required to meet Santa Fe County Rural Road Classification and Design Standards with regard to Cul-de-Sac requirements which would require two driving lanes, each lane must be a minimum of 10 ft. in width, a max grade of 9%, with a 38 ft. easement, and 3 in. of base course as stated in chapter 7 table 7-13 Rural Road Classification and Design Standards (SDA-2 and SDA-3). The Applicant is only asking for a variance of the max 9% grade, not the minimum ROW. Staff has confirmed that the portion of River Valley Rd. from S.R. 592 to the existing roundabout does meet width, grade, (38) foot ROW, base course and adequate drainage, subject to Table 7-13. River Valley Rd. is a gated community with an electric gate that measures (14) ft. wide. Santa Fe County Fire Prevention has conducted an inspection of the road and is aware of the gate width of (14) ft. The Applicant will be required to provide a knox lock per Santa Fe County Fire Prevention.

The applicable requirements under the Santa Fe County Sustainable Land Development Code, Ordinance No. 2016-9 (SLDC), which governs this Application are the following:

Chapter 8, Section 8.6.4.1 Rural Residential (RUR-R) Purpose:

The purpose of the Rural Residential (RUR-R) district are to provide for the development of single-family homes on large lots, either individually or as part of rural subdivisions; to preserve the scenic and rural character of the County; to provide consolidated open space and agriculture lands; and to recognize the desirability of carrying on compatible agriculture operations and home development in areas near the fringes of urban development while avoiding unreasonable restrictions on farming or ranching operations. Uses that support rural character of the broader area shall be allowed including agriculture productions, small-scale renewable energy production, home-based businesses, bed and breakfasts, agrotourism, equestrian and boarding facilities, farmers markets and produce stands. Density transfers and clustered development shall be allowed in order to support continued farming and/or ranching activities, conserve open space or protect scenic features and environmentally sensitive areas.

Chapter 8, Section 8.6.8.1 Traditional Community (TC) Purpose:

The purpose of the Traditional Community (TC) district is to designate areas suitable for residential, small-scale commercial and traditional agriculture uses consistent with the existing development patterns of traditional communities. The TC district accommodates traditional community patterns, preserves historic and cultural landscapes, and protects agriculture uses, including agriculture found in traditional communities with acequia systems, from encroachment by development. Density bonuses and transfers of development rights may be utilized to achieve the purposes of the district. Density transfers and clustered development shall be allowed in order to support continued farming and/or ranching activities, conserve open space or protect scenic features and environmentally sensitive areas.

Chapter 4, Section 4.9.7.1, Variances, Purpose, states:

The purpose of this Section is to provide a mechanism in the form of a variance that grants a landowner relief from certain standards in this code where, due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner. The granting of an area variance shall allow a deviation from the dimensional requirements and standards of the Code, but in no way shall it authorize a use of land that is otherwise prohibited in the relevant zoning district.

Chapter 4, Section 4.9.7.4, Variance Review criteria states:

A variance may be granted by only a majority of all the members of the Planning Commission (or the Board, on appeal from the Planning Commission) based upon the following criteria:

1. where the request is not contrary to public interest;
2. where due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner; and
3. so that the spirit of the SLDC is observed and substantial justice is done.

Chapter 4, Section 4.9.7.5 Conditions of approval.

1. The Planning Commission may impose conditions on a variance request necessary to accomplish the purposes and intent of the SLDC and the SGMP and to prevent or minimize adverse impacts on the general health, safety and welfare of property owners and area residents.

2. All approved variances run with the land, unless conditions of approval imposed by the Planning Commission specify otherwise.
3. All approved variances automatically expire within one year of the date of approval, unless the applicant files a plat implementing the variance or substantial construction of the building or structure authorized by the variance occurs within that time.

The Applicant has addressed the variance criteria, for the road grade, as follows:

1. Where the request is not contrary to the public interest;

Applicant's Statement: According to the Applicant's engineer (Design Enginuity), the request to allow the section of River Valley Road from the existing roundabout to the Applicant's property at 40A River Valley Road is not contrary to the public interest in that it will allow safe and improved access to the subject's properties as well as the neighboring two properties to the east of the road. The existing road ranges in width from 12 to 15 feet, which creates a challenging passing condition. The proposed widening of the road to the required 20 feet is in the interest of the public. Furthermore, maintaining the existing grades that range from 8.2% to 13.8% with a very small section at 15% will allow the rural roadway to be preserved, as well as the existing Rio en Medio crossing to the north. If the required 9% grade were implemented, the crossing would require a 20 foot high fill with a major bridge structure as indicated in the engineer's Plan and Profile.

Staff Response: Chapter 7, Section 7.11.11.5 states: Residential development may reduce the road easement width for off-site and on-site roads to no less than 20 ft. if adequate drainage control is provided and may allow the surface to be hard packed dirt with compaction of 95% of the maximum density. Staff has conducted a site visit and reviewed the Plan and Profile submitted by the Applicant's agent. Staff has determined that portions of River Valley road as indicated in Exhibit 4 will require widening to meet the (20) ft. driving surface. Staff considered the requirement of road grade expectation of 9%. Staff acknowledges that the rural roadway and Rio en Medio would be impacted if the Applicant were required to meet the 9% road grade requirement.

2. Where due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties and undue hardship to the owner;

Applicant's Statement: The Applicant bought the property, which is accessed via River Valley Road, a roadway that was permitted and built under the previous Santa Fe County Land Use Code. With the adoption of the SLDC, off-site roadway standards changed per Table 7-13, thus deeming River Valley Road non-complaint. The only means to access the subject property is from this road. Furthermore, the existing terrain and limited horizontal length of the road from the roundabout to the Rio en Medio does not allow the road to be re-engineered to lower the grades to the requisite 9%.

Staff Response: Staff has confirmed that the portion of River Valley Rd. from the existing roundabout to the applicant's driveway doesn't meet the (20) foot driving surface and 9% grade. Staff acknowledges that River Valley Rd. has been in existence since November 20, 1963 (plat book 197 page 9.) Staff reviewed the Plan and Profile (Exhibit 4) submitted by applicant's engineer and determined that the applicant would need to use approximately (20) ft. of fill to alter the current road grades to meet the requisite 9% of the SLDC. Staff agrees that (20) ft. of fill is excessive.

3. So that the spirit of the SLDC is observed and substantial justice is done.

Applicant's Statement:

1.) The variance request observes the spirit of SLDC § 7.11, Road Design Standards, as outlined below.

§7.11.1 Ensure that the design of roads conforms to the policies of the SGMP;

The requested variance from the local roadway standards would sustain the intent and spirit of the SLDC by minimizing the scarring and disturbance of the natural terrain as well as maintaining the character and physical location of a rural road consistent with the intent of a rural residential road.

§7.11.2 Provide for the safety for both vehicular and pedestrian traffic;

The proposed widening of the road will allow for vehicles, local and emergency, to pass safely and is within the spirit of the SLDC. The proposed roadway was laid out and designed to conform to the policies of the SGMP.

§7.11.3 Provide for livable residential, mixed-use and commercial environments;

The variance request to allow for grades beyond the allowable 9% preserves the rural nature of the existing road that serves four residential lots. The proposed grades are drivable, safe and within the range allowable by the Fire Marshal with a variance request.

§7.11.4 Provide for economy of land use, construction, and maintenance; and

The proposed roadway will allow for future use, development and continuation of maintenance of the four residential properties accessed. Currently, no development is allowed with the existing conditions of River Valley Road.

§7.11.5 Provide safe and efficient access to property.

The proposed improvements to the road, which include grades that exceed the required 9% will allow for vehicles, local and emergency, to pass safely and is within the spirit of the SLDC. The proposed roadway was laid out and designed to

conform to the policies of the SGMP. The proposed grades are drivable, safe and within the range allowable by the Fire Marshal with a variance request.

Staff Response: The Applicant is proposing to bring a portion of River Valley Rd. into compliance by widening the road to (20) ft. However, the Applicant is requesting a variance to allow existing grades of up to 15% in one location. By widening River Valley Road to (20) ft., the road will increase safety for vehicular and pedestrian traffic. Staff reviewed the Plan and Profile (Exhibit 4) submitted by Applicant's engineer and determined that the Applicant would need to use approximately (20) ft. of fill to alter the current road grades to meet the requisite 9% SLDC. Staff agrees that (20) ft. of fill is excessive and does not meet the spirit of the SLDC.

The Applicant has addressed the variance criteria, for the disturbance of 30% slopes, as follows:

1. Where the request is not contrary to the public interest :

Applicant's Response: A Variance is requested from SLDC §7.17.9.2.4, *Utilities, drainage structures, slope retention structures, and access roads and driveways may be located on a natural slope in excess of thirty percent (30%) so long as they disturb no more than three separate areas not exceeding 1,000 square feet each.* The Variance is necessary to allow for disturbance of 30% slopes caused by the widening of the road. The project will result in a total of 3,117 s.f. disturbance of slopes in excess of 30%. However, most of these slopes are manmade. The total of natural 30% slopes to be disturbed is 1,180 s.f., which will occur in six locations ranging in size from 22 s.f. to 468 s.f. The variance request to allow disturbance of 1,180 s.f. of 30% slopes in order to widen the road to the required 20 foot width is in the public's interest as it will provide a safe and sustainable access for property owners and emergency services to the four lots accessed from the roundabout north.

Staff Response: The Applicant's engineer has stated that the project will result in a total of 3,117 sq. ft. disturbance of slopes in excess of 30% and that most of these slopes are manmade as indicated in the Plan and Profile (Exhibit 4). The total amount of natural 30% slopes to be disturbed is 1,180 sq. ft., which will occur in (6) locations ranging in size from 22 sq. ft. to 468 sq. ft. (Exhibit 4). Chapter 7, Section 7.17.9.2.4: *Utilities, drainage structures, slope retention structures, and access roads and driveways may be located on a natural slope in excess of thirty percent (30%) so long as they disturb no more than three separate areas not exceeding 1,000 square feet each.* Staff acknowledges that the SLDC states three allotted disturbances of 1000 square feet per disturbance (3000 square feet total.) However, staff agrees that the total square footage of the six disturbances falls under 3000 square feet.

2. Where due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner; and

Applicant's Response: River Valley Road was permitted and built under the previous Santa Fe County Land Use Code. With the adoption of the SLDC, off-site roadway standards changed per Table 7-13, thus deeming River Valley Rd. noncompliant. The only means to access the subject properties is from this road. Furthermore, the required widening to (20) foot width results in disturbance of the existing terrain which has naturally occurring (30%) slopes. The road is within a (38) foot easement and therefore, cannot be relocated to areas of lesser slopes.

Staff Response: Staff acknowledges that River Valley Rd. has been in existence since November 20, 1963 (plat book 197 page 9.) Staff conducted a site visit and reviewed the Plan and Profile submitted by applicant and has confirmed that a portion of River Valley Road would need to be widened to (20) ft. in order to meet SLDC requirements. In order for the applicant to meet the (20) ft. driving surface, the applicant would need to disturb the exiting terrain, which has existing (30%) slopes. The applicant's engineer has stated that the project will result in a total of 3,117 sq. ft. disturbance of slopes in excess of 30%. Ten of these slopes are manmade as indicated in the Plan and Profile (Exhibit 4). The total amount of natural 30% slopes to be disturbed is 1,180 sq. ft., which will occur in (6) locations ranging in size from 22 sq. ft. to 468 sq. ft. (Exhibit 4). Plat book 672 page 45-46 indicates River Valley Rd. has a (38) ft. access, which meets current SLDC requirements.

3. So that the spirit of the SLDC is observed and substantial justice is done.

Applicant's Statement: The Variance request observes the spirit of SLDC §7.11, Road Design Standards, as outlined below.

§7.11.1 Ensure that the design of roads conforms to the policies of the SGMP;

The requested variance from the Cul-de-Sac standards would sustain the intent and spirit of the SLDC by minimizing the scarring and disturbance of the natural terrain by keeping the road within the existing 38 foot easement as well as maintaining the character and physical location of a rural road consistent with the intent a rural residential road.

§7.11.2 Provide for the safety for both vehicular and pedestrian traffic;

The 20 foot width provides for safe vehicular as well as pedestrian traffic as it allows vehicles, pedestrians as well as emergency vehicles to pass safely and within the requirements of SLDC Table 7-13.

§7.11.3 Provide for livable residential, mixed-use and commercial environments;

The variance request to allow for the disturbance of 30% slopes in order to provide the required 20 foot width preserves the rural nature of the existing road that serves

four residential lots. The livability of the residential neighborhood would be seriously hindered if the road is not allowed to be widened, which requires the 30% disturbance.

§7.11.4 Provide for economy of land use, construction, and maintenance; and

The proposed roadway will allow for future use, development and continuation of maintenance of the four residential properties accessed. Currently, no development is allowed with the existing conditions of River Valley Road.

§7.11.5 Provide safe and efficient access to property.

The proposed widening of the road which creates the 30% disturbance will allow for vehicles, local and emergency, to pass safely and within the spirit of the SLDC. The proposed roadway was laid out and designed to conform to the policies of the SGMP.

Staff Response: Chapter 7, Section 7.17.9.2.4: Utilities, drainage structures, slope retention structures, and access roads and driveways may be located on a natural slope in excess of thirty percent (30%) so long as they disturb no more than three separate areas not exceeding 1,000 square feet each. The SLDC requires two (10) ft. driving lanes with a (38) ft. ROW with a max grade of (9%). After review of Applicant's Plan and Profile, the number of disturbances exceeds the SLDC requirements. However, the total square footage of natural 30% slope disturbed areas is less than the total square footage of 3,000 square feet as defined in the SLDC.

As required by the SLDC, the Applicants presented the Application to the Technical Advisory Committee (TAC) on July 20, 2017, at the regularly scheduled monthly meeting, which satisfied the requirements set forth in Chapter 4, Section 4.4.4.3, Pre-application TAC Meeting.

Notice requirements were met as per Chapter 4, Section 4.6.3., General Notice of Application Requiring a Public Hearing, of the SLDC. In advance of a hearing on the Application, the Applicants provided an affidavit of posting of notice of the hearing, confirming that public notice posting regarding the Application was made for fifteen days on the property, beginning on September 13, 2017. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on September 13, 2017, as evidenced by a copy of that legal notice contained in the record. Notice of the hearing was sent to owners of land within 500' of the subject property and a list of persons sent a mailing is contained in the record.

This Application was submitted on July 17, 2017.

RECOMMENDATION:

The Applicant did provide responses to the variance review criteria. Staff recommends approval of a variance from Ordinance No. 2016-9 the Sustainable Land Development Code

102 Grant Avenue · P.O. Box 276 · Santa Fe, New Mexico 87504-0276 · 505-986-6200 · FAX: 505-995-2740 www.santafecountynm.gov

NBD-9

(SLDC) of Chapter 7, Table 7-13, Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow an existing roadway to exceed 9% grade and Chapter 7, Section 7.17.9.2.4 to allow disturbance of 30% slopes in six separate areas.

Staff confirms that a (20) foot driving surface is required for vehicle and pedestrian safety. This allows for safe and efficient access to existing properties. Staff supports the minimal easing of the slope disturbance in order to achieve the (20) foot wide driving surface as total disturbance is less than is allowed by Code. Staff supports the minimal easing of the slope standards. If the Applicant were to adhere to the 9% road grade, it would require the Applicant to add (20) feet of fill, which is more intrusive and does not support the spirit of the SLDC.

This matter went before the Hearing Officer for a hearing on September 28, 2017. The Hearing Officer recommends approval of a variance of Chapter 7, Table 7-13 Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow an existing roadway to exceed 9% grade and a variance of Chapter 7, Section 7.17.9.2.4 to allow disturbance of 30% slopes in six separate areas.

If the decision of the Planning Commission is to approve the application, you may consider adopting the Hearing Officer's finding of fact and conclusion of law in the written recommendation.

EXHIBITS:

1. Applicants Request
2. Recorded Survey Plat
3. Aerial of Site and Surrounding Area
4. Plan and Profile
5. Chapter 7, Table 7-13 Rural Road Classification and Design Standards (SDA-2 & SDA-3)
6. Chapter 7, Section 7.17.9.2.4 Standards.
7. Noticing
8. Hearing Officer Final Order/Meeting Minutes



JENKINSGAVIN
LAND USE | PROJECT MANAGEMENT

July 28, 2017

Penny Ellis-Green
Land Use Administrator
Growth Management Division
Santa Fe County
102 Grant Avenue, Suite 101
Santa Fe, NM 87501

**RE: 38 and 40 River Valley Road
Variance Application**

Dear Penny:

This letter is respectfully submitted on behalf of Ross Bee in application for a Variance to be heard by the Hearing Officer on September 28, 2017 and by the Planning Commission on November 16, 2017. The \pm 0.75-acre and 15.95-acre subject property is located at 38 and 40 River Valley Road, is zoned Rural Residential (RUR-R), and is in SDA-2. This variance request is for the section of River Valley Road from the existing roundabout north to the referenced properties. River Valley Road from County Road 592 to the roundabout meets the SLDC Roadway Standards for easement, driveable surface and width (ranging from 20' - 22' wide), drainage, and grade.

Variance Requests

- 1.) A Variance is requested from SLDC Table 7-13, Rural Road Classification and Design Standards (SDA-2 and SDA-3), with regard to the Cul-de-Sac required maximum slope of 9% for the River Valley Road, a private drive which runs from County Road 592 to the subject property.

Our responses to the Variance Review Criteria in SLDC §14.9.7.4 are outlined below.

A variance may be granted only by a majority of all the members of the Planning Commission (or the Board, on appeal from the Planning Commission based on the following criteria:

1. *where the request is not contrary to the public interest;*

Applicant's Response:



NRD-11

The request to allow the section of River Valley Road from the existing roundabout to the Applicant's property at 38 and 40 River Valley Road is not contrary to the public interest in that it will allow safe and improved access to the subject properties as well as the neighboring two properties to the east of the road. The existing road ranges in width from 12 to 15 feet, which creates a challenging passing condition. The proposed widening of the road to the required 20 feet is in the interest of the public. Furthermore, maintaining the existing grades that range from 8.2% to 13.8% with a very small section at 15% will allow the rural roadway to be preserved, as well as the existing Rio en Medio crossing to the north. If the required 9% grade were implemented, the crossing would require a 20 foot high fill with a major bridge structure.

2. *where due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner; and*

Applicant's Response:

The Applicant bought the property, which is accessed via River Valley Road, a roadway that was permitted and built under the previous Santa Fe County Land Use Code. With the adoption of the SLDC, off-site roadway standards changed per Table 7-13, thus deeming River Valley Road non-compliant. The only means to access the subject properties is from this road. Furthermore, the existing terrain and limited horizontal length of the road from the roundabout to the Rio en Medio does not allow the road to be re-engineered to lower the grades to the requisite 9%.

3. *So that the spirit of the SLDC is observed and substantial justice is done.*

Applicant's Response:

The Variance request observes the spirit of SLDC §7.11, Road Design Standards, as outlined below.

§7.11.1 *Ensure that the design of roads conforms to the policies of the SGMP;*

The requested variance from the Cul-de-Sac standards would sustain the intent and spirit of the SLDC by minimizing the scarring and disturbance of the natural terrain as well as maintaining the character and physical location of a rural road consistent with the intent a rural residential road.

§7.11.2 *Provide for the safety for both vehicular and pedestrian traffic;* NBD-12

The proposed widening of the road will allow for vehicles, local and emergency, to pass safely and within the spirit of the SLDC. The proposed roadway was laid out and designed to conform to the policies of the SGMP.

§7.11.3 Provide for livable residential, mixed-use and commercial environments;

The variance request to allow for grades beyond the allowable 9% preserves the rural nature of the existing road that serves four residential lots. The proposed grades are drivable, safe and within the range allowable by the Fire Marshal with a variance request.

§7.11.4 Provide for economy of land use, construction, and maintenance; and

The proposed roadway will allow for future use, development and continuation of maintenance of the four residential properties accessed. Currently, no development is allowed with the existing conditions of River Valley Road.

§7.11.5 Provide safe and efficient access to property.

The proposed improvements to the road, which include grades that exceed the required 9%, will allow for vehicles, local and emergency, to pass safely and within the spirit of the SLDC. The proposed roadway was laid out and designed to conform to the policies of the SGMP. The proposed grades are drivable, safe and within the range allowable by the Fire Marshal with a variance request.

- 2.) A Variance is requested from SLDC §7.17.9.2.4, *Utilities, drainage structures, slope retention structures, and access roads and driveways may be located on a natural slope in excess of thirty percent (30%) so long as they disturb no more than three separate areas not exceeding 1,000 square feet each.* The Variance is necessary to allow for disturbance of 30% slopes caused by the widening of the road. The project will result in a total of 3,117 s.f. disturbance of slopes in excess of 30%. However, most of these slopes are manmade. The total of natural 30% slopes to be disturbed is 1,180 s.f., which will occur in six locations ranging in size from 22 s.f. to 468 s.f.

Our responses to the Variance Review Criteria in SLDC §14.9.7.4 are outlined below.

A variance may be granted only by a majority of all the members of the Planning Commission (or the Board, on appeal from the Planning Commission based on the following criteria:

- 1. where the request is not contrary to the public interest;*

Applicant's Response:

The variance request to allow disturbance of 1,180 s.f. of 30% slopes in order to widen the road to the required 20 foot width is in the public's interest as it will provide a safe and sustainable access for property owners and emergency services to the four lots accessed from the roundabout north.

2. *where due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner; and*

Applicant's Response:

River Valley Road was permitted and built under the previous Santa Fe County Land Use Code. With the adoption of the SLDC, off-site roadway standards changed per Table 7-13, thus deeming River Valley Road noncompliant. The only means to access the subject properties is from this road. Furthermore, the required widening to 20 foot width results in disturbance of the existing terrain which has naturally occurring 30% slopes. The road is within a 38 foot easement and therefore, cannot be relocated to areas of lesser slopes.

3. *So that the spirit of the SLDC is observed and substantial justice is done.*

Applicant's Response:

The Variance request observes the spirit of SLDC §7.11, Road Design Standards, as outlined below.

§7.11.1 Ensure that the design of roads conforms to the policies of the SGMP;

The requested variance from the Cul-de-Sac standards would sustain the intent and spirit of the SLDC by minimizing the scarring and disturbance of the natural terrain by keeping the road within the existing 38 foot easement as well as maintaining the character and physical location of a rural road consistent with the intent a rural residential road.

§7.11.2 Provide for the safety for both vehicular and pedestrian traffic;

The 20 foot width provides for safe vehicular as well as pedestrian traffic as it allows vehicles, pedestrians as well as emergency vehicles to pass safely and within the requirements of SLDC Table 7-13.

§7.11.3 Provide for livable residential, mixed-use and commercial environments;

The variance request to allow for the disturbance of 30% slopes in order to provide the required 20-foot width preserves the rural nature of the existing road that serves four residential lots. The livability of the residential neighborhood would be seriously hindered if the road is not allowed to be widened, which requires the 30% disturbance.

§7.11.4 Provide for economy of land use, construction, and maintenance; and

The proposed roadway will allow for future use, development and continuation of maintenance of the four residential properties accessed. Currently, no development is allowed with the existing conditions of River Valley Road.

§7.11.5 Provide safe and efficient access to property.

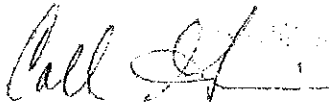
The proposed widening of the road which creates the 30% disturbance will allow for vehicles, local and emergency, to pass safely and within the spirit of the SLDC. The proposed roadway was laid out and designed to conform to the policies of the SGMP.

The following documentation is submitted in support of this request:

- Development Review Application
- Letter of Owner Authorization
- Approved Emergency 911 Assigned Address Form
- Roadway Plan & Profile
- Warranty Deed & Legal Lot of Record Verification
- Proof of Taxes Paid
- Fees in the amount of \$600.00 - \$300.00 for each Variance Fee

Your consideration of this request is greatly appreciated. Please do not hesitate to call with any questions.

Sincerely,



Colleen C. Gavin, AIA
JenkinsGavin, Inc.

NBD-15

SANTA FE COUNTY APPROVAL, NOTES AND CONDITIONS:

1-8-08
COUNTY LAND-USE ADMINISTRATOR
DATE
08-3252
DEVELOPMENT PERMIT NO.
Mark Gailor
COUNTY RURAL ADDRESSING
DATE
12-5-07

1. MAINTENANCE OF PRIVATE ACCESS ROADS AND UTILITY EASEMENTS TO BE RESPONSIBILITY OF LAND OWNERS/USERS UNLESS CURRENTLY MAINTAINED BY THE SANTA FE COUNTY PUBLIC WORKS DEPARTMENT OR N.M. STATE HWY. DEPT.
2. WATER USE ON THESE LOTS RESTRICTED BY COVENANTS FILED IN THE OFFICE OF THE COUNTY CLERK AND RECORDED AS INSTRUMENT NO. 1511590
3. SOILS RATING: PURSUANT TO THE SANTA FE COUNTY LAND DEVELOPMENT CODE, THE SOILS RATING ON THIS PROPERTY IS DESIGNATED AS BEING SEVERE REGARDING LIMITATIONS TO SEPTIC TANKS. POTENTIAL BUYERS/SELLERS OF THIS PROPERTY SHOULD INQUIRE WITH THE NEW MEXICO ENVIRONMENT DEPARTMENT WHETHER THESE SOILS ARE SUITABLE FOR CONVENTIONAL SEPTIC SYSTEM OR IF AN ALTERNATIVE SYSTEM IS REQUIRED.
4. SANTA FE COUNTY'S APPROVAL OF THIS SURVEY PLAT DOES NOT INCLUDE THE CONSTRUCTION OF THE PRIVATE EASEMENTS OR ROADS AS SHOWN. PRIOR TO THE CONSTRUCTION OF SAID PRIVATE EASEMENTS OR ROADS, IT IS REQUIRED THAT AN ADDITIONAL DEVELOPMENT PERMIT BE APPLIED FOR AND THEN APPROVED BY THE SANTA FE COUNTY LAND USE ADMINISTRATOR.
5. THE APPROVAL OF THIS PLAT DOES NOT CONSTITUTE THE APPROVAL OF ANY FURTHER DEVELOPMENT INCLUDING BUILDING PERMITS.
6. EXISTING NATURAL DRAINAGEWAYS WILL NOT BE MODIFIED OR IMPEDED WITHOUT THE WRITTEN APPROVAL OF THE LAND USE ADMINISTRATOR OR COUNTY HYDROLOGIST. DEVELOPMENT SHALL NOT IMPEDE HISTORIC FLOW RATES OR PATTERNS TO OR FROM THESE LOTS.
7. THE PARCELS AS PLATTED HEREON ARE SUBJECT TO ARTICLE VII, SECTION 3 OF THE SANTA FE COUNTY TERRAIN MANAGEMENT REGULATIONS AT THE TIME OF ANY DEVELOPMENT.
8. THE LANDS SHOWN HEREON LIE WITHIN THE PLANNING AND PLATTING JURISDICTION OF THE COUNTY OF SANTA FE.
9. THESE LOTS ARE SUBJECT TO SANTA FE COUNTY FIRE AND RESCUE IMPACT FEES AT THE TIME OF APPLICATION FOR BUILDING PERMIT.
10. TRACTS A-1 AND A-2 BUILDABLE AREAS OR ROADWAYS HAVE NATURAL SLOPES OF 15% OR GREATER. ALL DEVELOPMENT ON THESE TRACTS MUST BE IN CONFORMANCE WITH THE APPROVED TERRAIN MANAGEMENT PLAN FOR THESE TRACTS. DEPENDING ON THE PROPOSED DEVELOPMENT PLANS, LANDSCAPING PLANS AND FURTHER SITE PLANS MAY BE NECESSARY TO MEET TERRAIN MANAGEMENT AND LANDSCAPING REQUIREMENTS OF THE SANTA FE COUNTY LAND DEVELOPMENT CODE.
11. FLOOD PLAIN DATA IS NOT AVAILABLE FOR THESE TRACTS ACCORDING TO THE FEDERAL FLOOD INSURANCE RATE MAP PANEL NO. 350069 D100B.
12. RECIPIENT(S) OF TRACT(S) SHOWN HEREON MUST RETAIN THEIR TRACT(S) A MINIMUM OF THREE YEARS IN ACCORDANCE WITH ARTICLE II, 2.4.2B, 3., (C) OF THE SANTA FE COUNTY LAND DEVELOPMENT CODE.
13. THESE TRACTS ARE SUBJECT TO THE REQUIREMENTS OF THE FIRE MARSHAL AFFIDAVIT FILED IN THE OFFICE OF THE COUNTY CLERK AND RECORDED AS INSTRUMENT NO. 1511590.
14. THESE TRACTS CREATED BY FAMILY TRANSFER.

SPECIAL BUILDING PERMIT CONDITIONS
BUILDINGS ON THESE LOTS ARE SUBJECT TO THE URBAN WILDLAND INTERFACE CODE
DEVELOPMENT PERMITS FOR BUILDING CONSTRUCTION WILL NOT BE ISSUED UNTIL REQUIRED IMPROVEMENTS FOR ROADS, FIRE PROTECTION, AND DRAINAGE ARE COMPLETED AS APPROVED BY STAFF

**FAMILY TRANSFER LAND DIVISION FOR
JAKE and HANNAH EAGLE
OF TRACT A**

PURPOSE: TO CREATE TWO RESIDENTIAL LOTS

Lying WITHIN SECTION 32 T.19N, R.10E, N.M.P.M., SANTA FE COUNTY, NEW MEXICO.

EXHIBIT
2
COOP SURVEYOR
NO. 11011
CERRILLOS, NM 87010
JUNY CLERK
1-036-109-024-109

LEGEND AND NOTES

- DENOTES POINT TO BE SET
- DENOTES POINT FOUND
- DENOTES POINT CALCULATED
- ⊙ DENOTES BRASS MONUMENT
- DENOTES POWERLINE SUPPORTED BY TREE
- △ AS NOTED
- AS NOTED
- DENOTES EDGE OF EASEMENT
- DENOTES OVERHEAD LINES
- DENOTES CENTERLINES OF DIRT ROADS OR TRAILS
- DENOTES FLOW LINES
- DENOTES FENCE LINE

BASIS OF BEARING AND REFERENCE DOCUMENTS

1. BASIS OF BEARING IS FROM "LOT LINE ADJUSTMENT AND LAND DIVISION CREATED BY FIVE YEAR EXEMPTION FOR R. HOWARD SEARS, FAMILY TRUST" BY RICHARD A. CHATROOP NMPLS#11011 AND FILED IN THE OFFICE OF THE SANTA FE COUNTY CLERK IN PLAT BK.533, PG.005.
2. THIS PLAT IS SUBJECT TO ANY EASEMENTS, RESTRICTIONS AND COVENANTS OF RECORD.
3. REFER TO PRECODE DEED FILES IN BOOK 364, PGS. 345-346 CONVEYING TRACT C TO JAMES AND MELLOA BELL.
4. REFER TO PLAT FILED IN PLAT BK. 590, PG. 19, IN THE OFFICE OF THE SANTA FE COUNTY CLERK

LINE TABLE		
LINE	LENGTH	BEARING
L1	41.22	N00°20'57"E
L2	100.00	N07°27'49"E

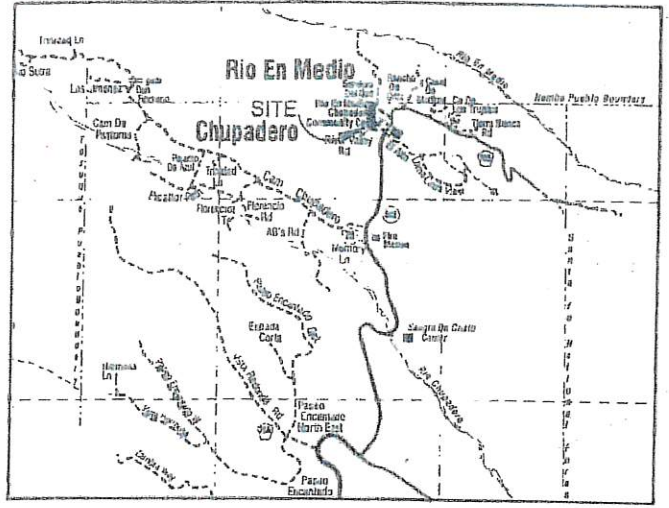
CURVE TABLE					
CURVE	LENGTH	RADIUS	CHORD BRG	CHORD DIST	DELTA
C1	58.38	30.72	S43°54'23"W	53.37	87°05'52"
C2	150.90	394.14	N80°50'30"W	159.78	23°23'21"

N/F
TRACT B1-2
BARISH
BK. 823 PG. 179

TRACT A-2
0.75 AC. ±
#40B RIVER VALLEY RD.
HANNAH EAGLE

N/F
TRACT B3
BLACKWOOD
BK. 1613 PG. 652

COUNTY OF SANTA FE
STATE OF NEW MEXICO
I hereby certify that this instrument was filed for record on the 20th day of January, A.D. 2008, at 1:33 o'clock P.M. and was duly recorded in book 1672, page 45-46 of the records of Santa Fe County.
Witness my Hand and Seal of Office
Valeria Espinoza
County Clerk, Santa Fe County, N.M.
Deputy



VICINITY MAP

DEDICATION AND AFFIDAVIT

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED OWNER(S), HAVE CAUSED TO BE DIVIDED THOSE LANDS SHOWN HEREON. THIS DIVISION IS MADE WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE WISHES AND DESIRES OF SAID OWNER(S). UTILITY COMPANIES ARE GRANTED EASEMENTS AS SHOWN AND FOR EXISTING UTILITIES OTHER EASEMENTS ARE GRANTED AS SHOWN.

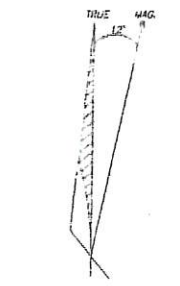
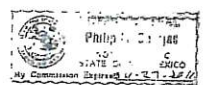
THIS DIVISION CONTAINS 15.70 AC. ±, AND LIES WITHIN THE PLANNING AND PLATTING JURISDICTION OF THE COUNTY OF SANTA FE, NEW MEXICO

JAKE & HANNAH EAGLE
DATE 12-4-07
12/4/07

STATE OF NEW MEXICO
COUNTY OF SANTA FE

THE FOREGOING INSTRUMENT WAS SWORN, ACKNOWLEDGED AND SUBSCRIBED BEFORE ME BY
JAKE & HANNAH EAGLE

THIS 4th DAY OF Dec, 2007
MY COMMISSION EXPIRES 12-27-2011 NOTARY PUBLIC



SCALE 1"=100'

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 NOV. 26TH, 2008, 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

N/F
INDIAN RESERVATION
1/4 CORNER SEC. 31/32 481 08
BRASS CAP
N 89°53'13" E

DAWSON CAP

TRACT A-1
15.95 AC. ±
#40A RIVER VALLEY RD.
JAKE EAGLE

N/F
INDIAN RESERVATION

N 00°05'00" W
1430.70

S 64°24'13" E
143.30

N 25°35'47" E
201.98
TRADITIONAL COMMUNITY LIMITS

RIO EN MEDIO

RIVER VALLEY RD.
38' ACCESS & N 69°42'21" W
UNGRD. UTIL' ESMT.
386.01

N/F
TRACT E
SEARS
PL.BK. 000 PG. 000

N.F.
TRACT D
SEARS
PL.BK. 000 PG. 000

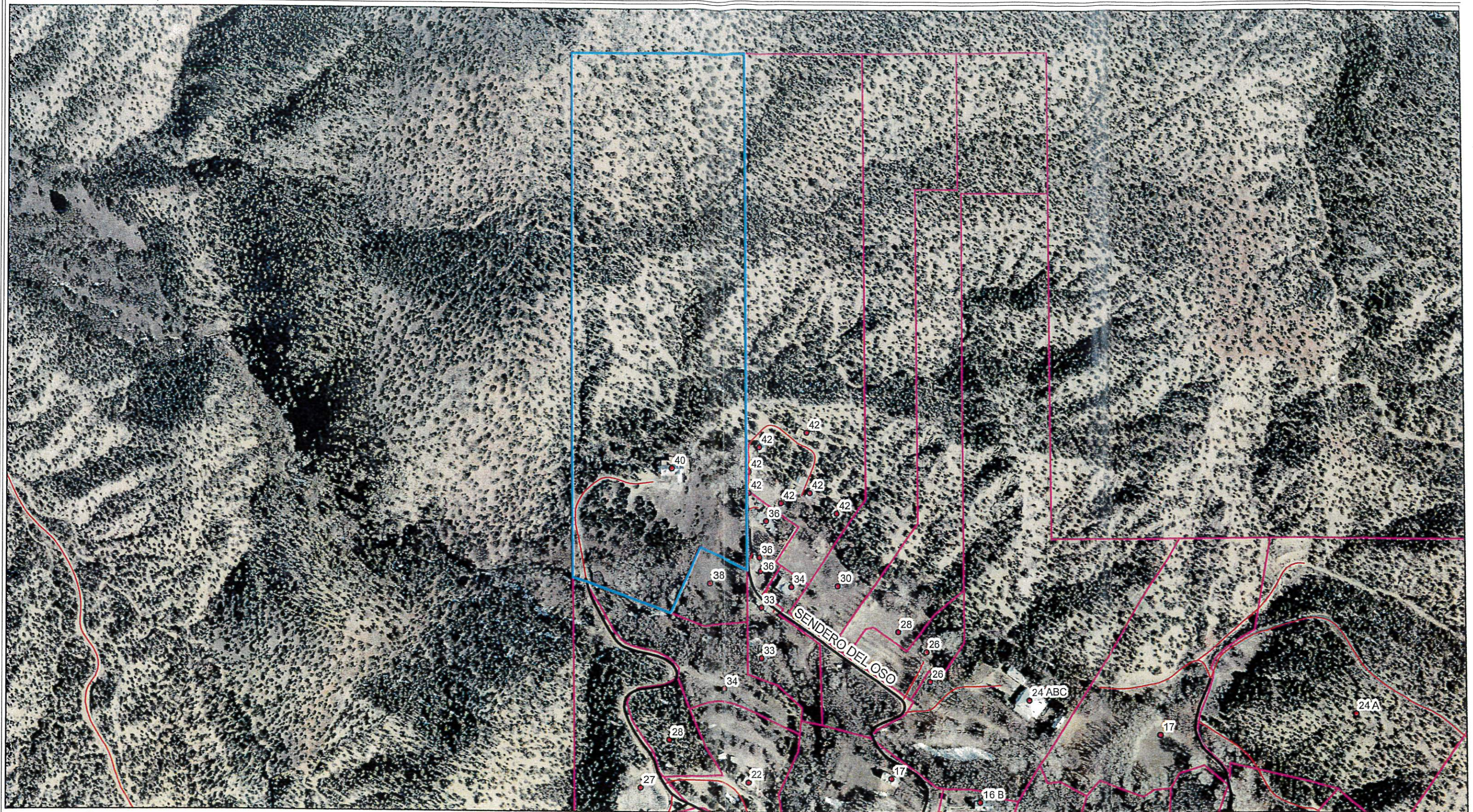
ACEQUIA DEL MOLINO

20' ACCESS EASEMENT
PLAT BOOK 141, PAGE 043

N/F
TRACT B3
BLACKWOOD
BK. 1613 PG. 652

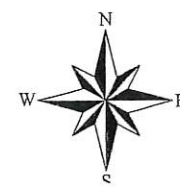
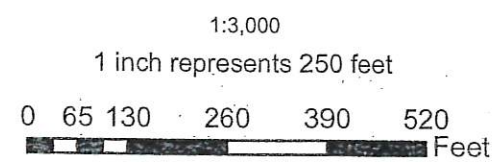
RIO EN MEDIO

S 32°43'12" W
19.59



Legend

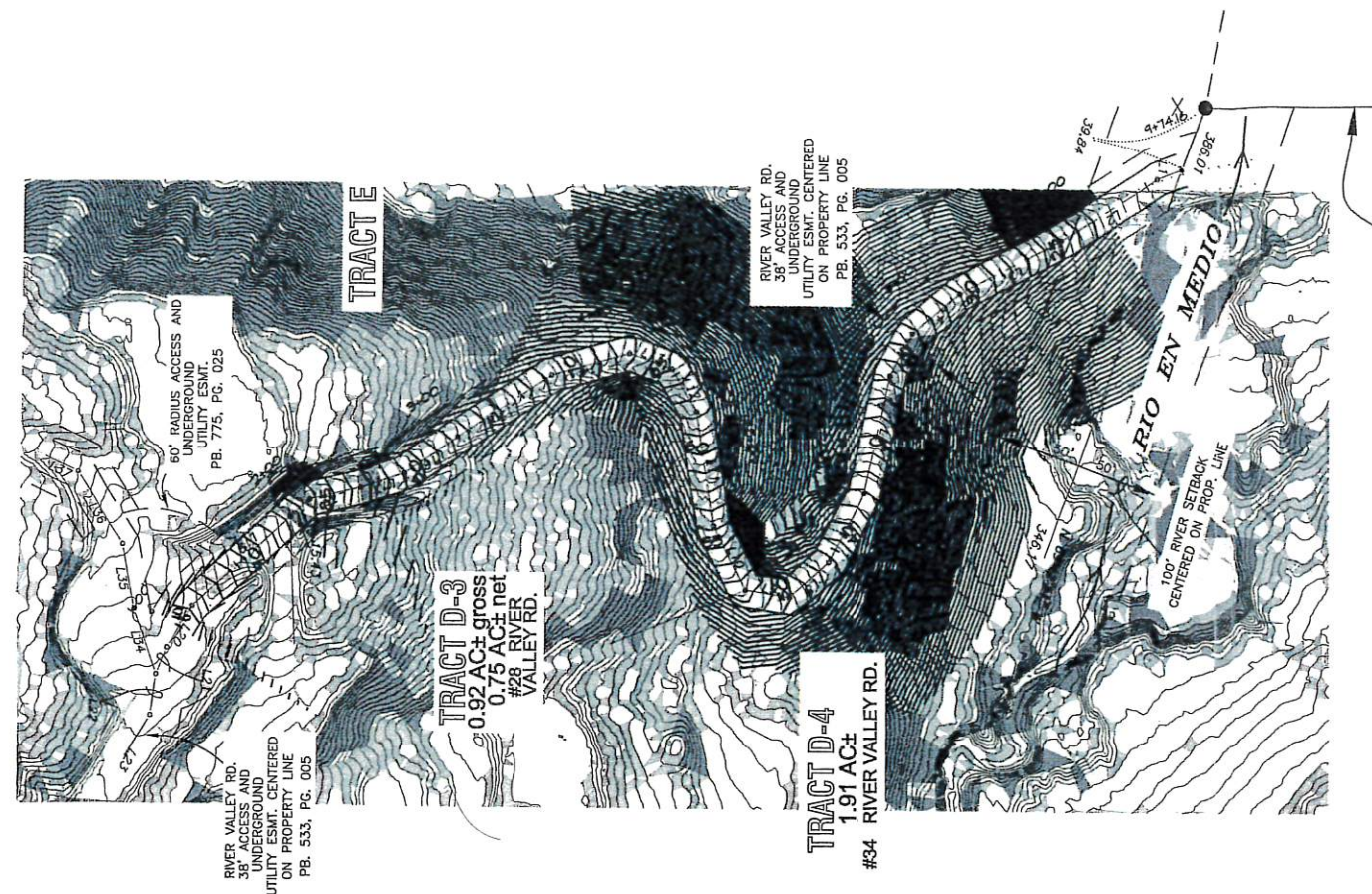
- ROADS
- DRIVEWAYS



2015 Orthophotography
2 FOOT CONTOUR

This information is for reference only.
Santa Fe County assumes no liability for
errors associated with the use of this information.





- LEGEND:**
- 0 TO 15% SLOPE
 - 15% TO 20% SLOPE
 - 20% TO 30% SLOPE
 - 30% AND OVER SLOPE (BASED ON 5' CONTOURS)

SCALE 1"=50'
VERTICAL: 1" = 20'

NOTE: GRADING EXTENDS BEYOND WHAT IS SHOWN.

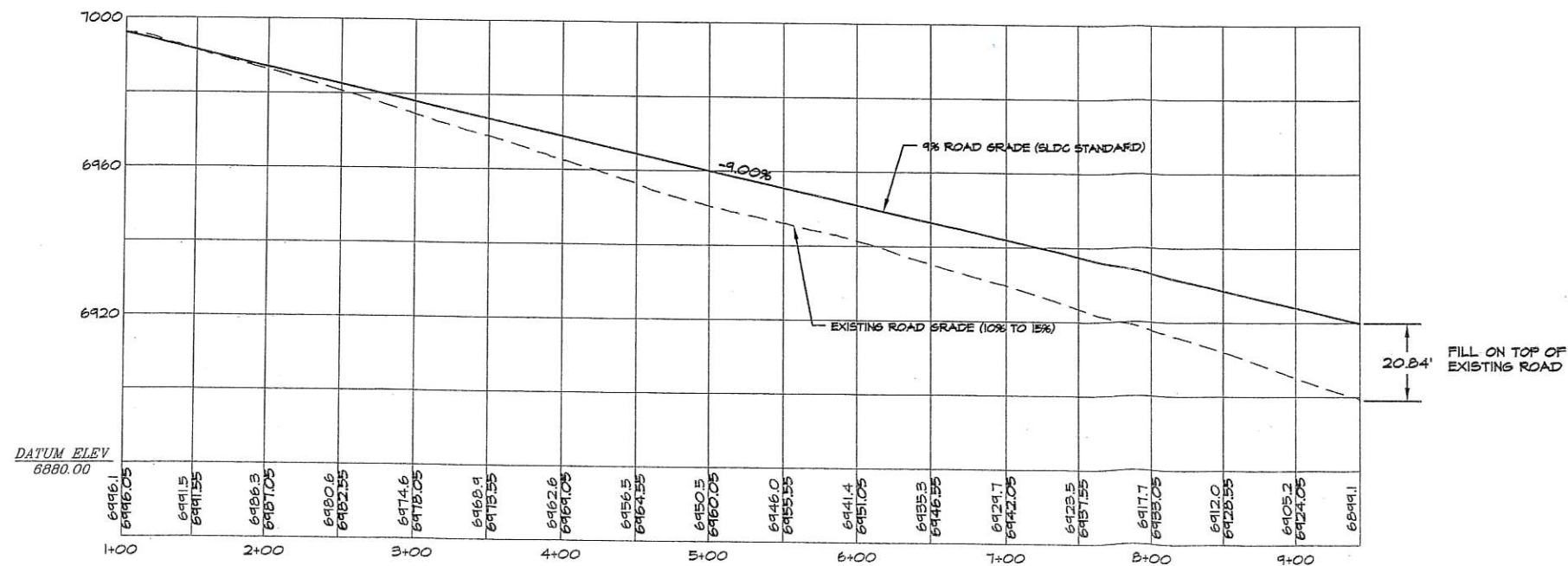
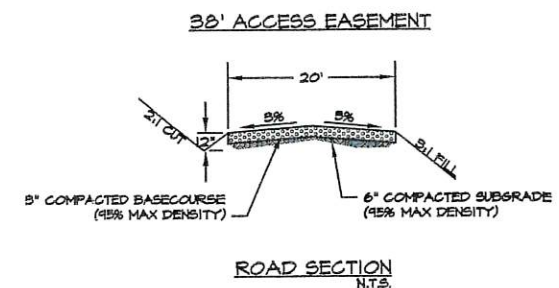


EXHIBIT 4

NBD-18

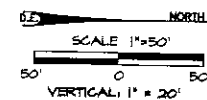
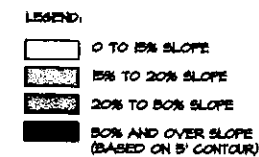
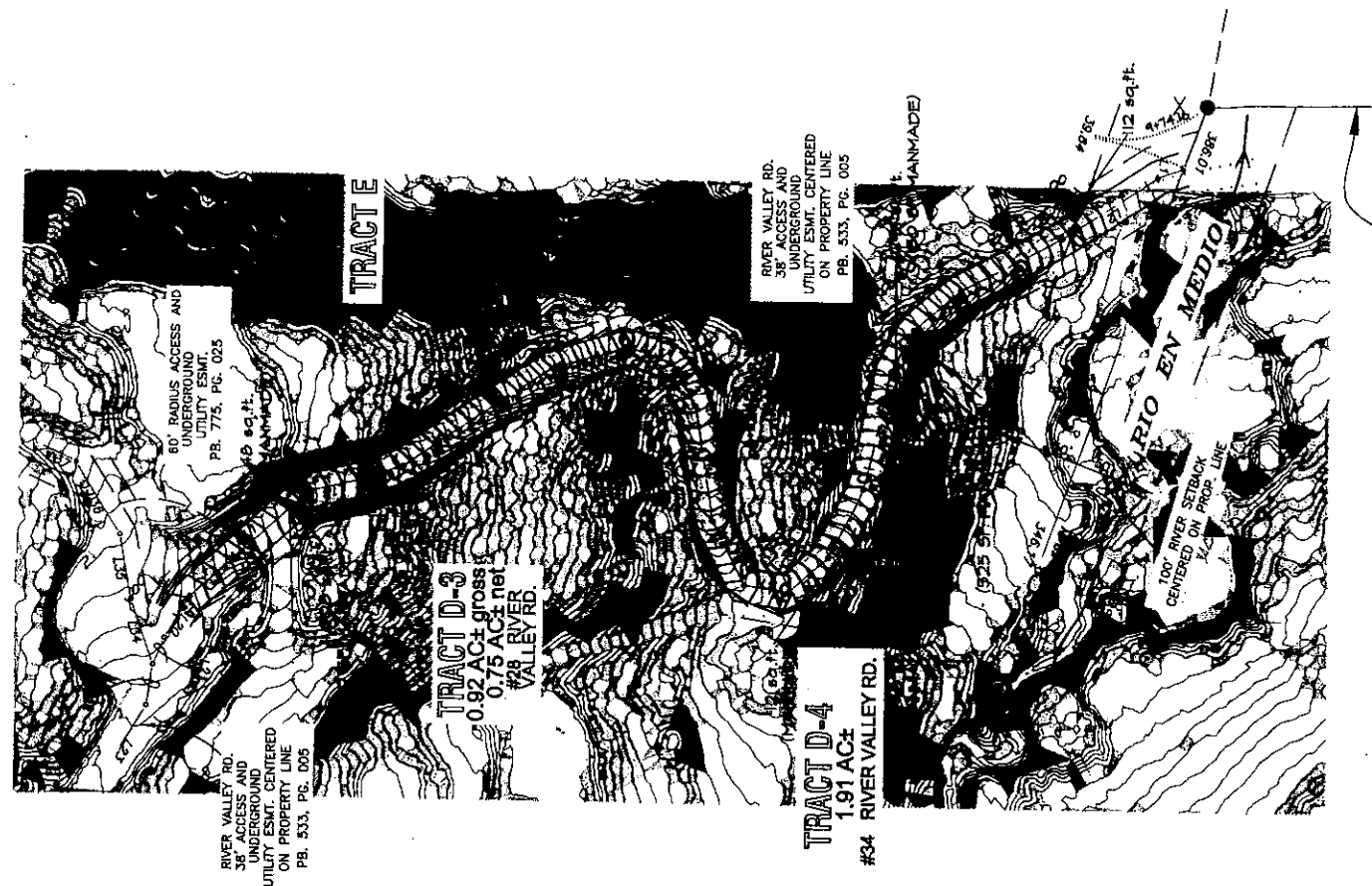
GIN ENGINEUTY

Street, Suite C, Santa Fe, New Mexico
(505) 994-9551

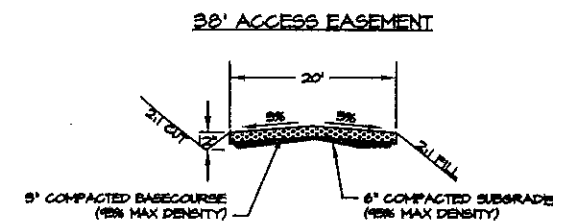
BEE OFFSITE

WAY PLAN AND PROFILE

SCALE 1"=50' DATE 07/25/2017

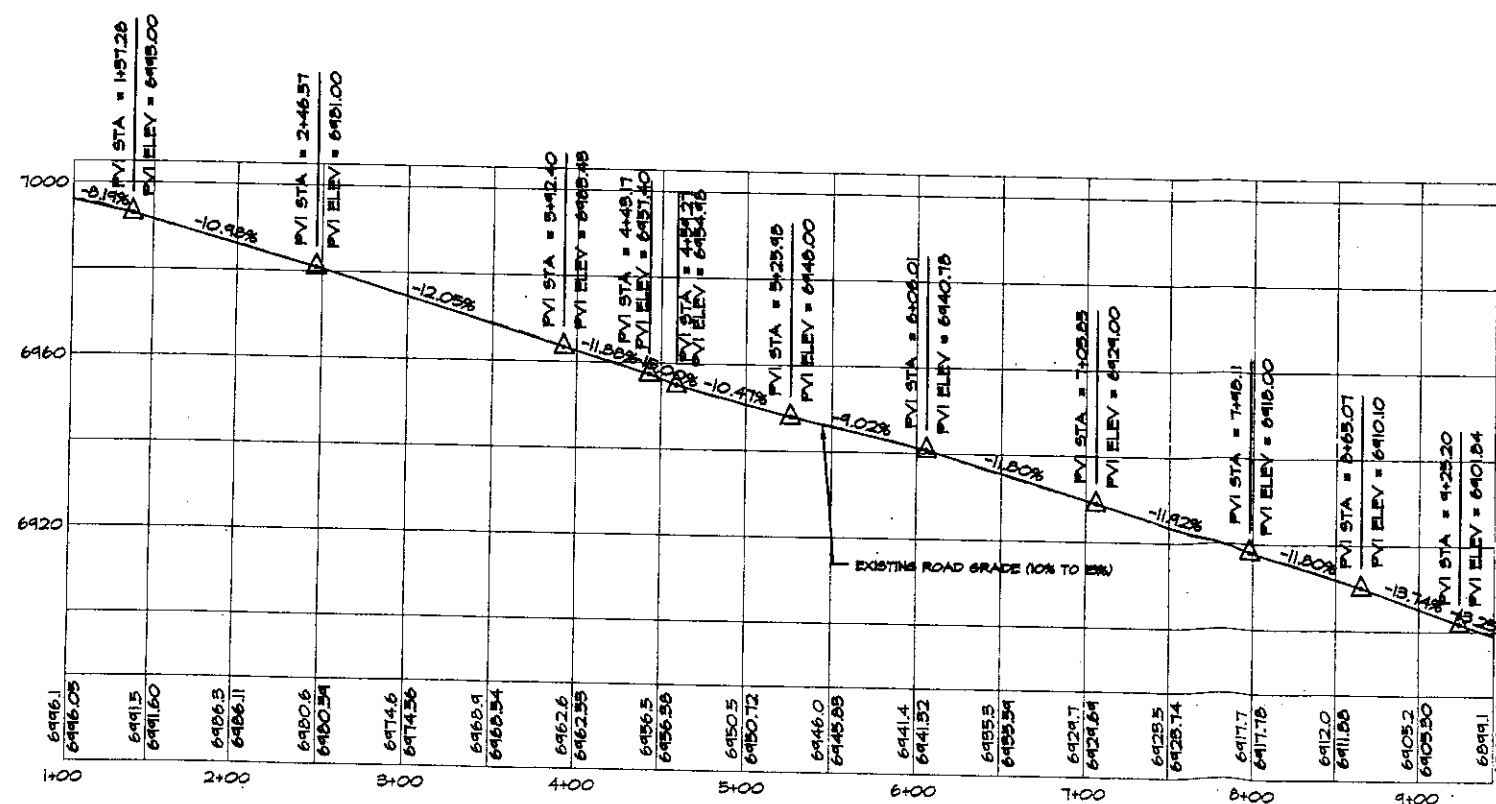


WIDENING OF THE ROAD WILL RESULT IN A TOTAL OF 817 SF OF SLOPE IN EXCESS OF 50% DISTURBANCE. MOST OF THESE SLOPES ARE MANMADE. A TOTAL OF 1180 SF OF NATURAL STEEP SLOPES WILL BE DISTURBED. THIS OCCURS IN 6 LOCATIONS RANGING IN SIZE FROM 468 SF TO 22 SF.



ROAD SECTION
RT3.

NOTE: EXISTING 2:1 FILL SLOPES ARE CURRENTLY STABLE. A PORTION OF THE ROAD WILL REQUIRE 15:1 CUT SLOPES TO CONTAIN GRADING WITHIN EASEMENTS. THESE SLOPES MAY REQUIRE ROCK PLATING OR RETAINING WALLS TO BE STABILIZED. ALL ALTERED SLOPES SHALL BE STABILIZED TO THE ENGINEER'S SATISFACTION PRIOR TO PROJECT COMPLETION.



NBD-19

DESIGN ENGINEER

1801 Linda Street, Suite C, Santa Fe, New Mexico
(505) 991-1991

ROSS BEE OFFSITE

PROPOSED ROADWAY PLAN AND PROFILE

SCALE: 1" = 50' DATE: 10/23/19

Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3).

	Avg. daily traffic	# of driving lanes	Lane width (ft)	Non-vehicular side paths	Bike lanes	Minimum ROW (ft)	Design Speeds (mph)	Max % Grade	Min. agg. base course	Min. bit. pavement	Max % Super-elev.
Major arterial or highway	5000 +	2-4	12	n/a	Two 5 ft. on-road	150	Level: 70 Rolling: 70 Mount.: 50-60	5%	6"	6"	8%
Minor arterial	2000 to 4999	2 - 4	12	n/a	Two 5 ft. on-road	120	Level: 60-75 Rolling: 50-60 Mount.: 40-50	5%	6"	5"	8%
Collector	401-1999	2	11	n/a	n/a	80	Level: 40-60 Rolling: 20-50 Mount.: 20-40	8%	6"	4"	8%
Local	0-400	2	10	n/a	n/a	50	Level: 30-50 Rolling: 20-40 Mount.: 20-30	9%	3"	n/a	8%
Cul-de-Sac	0 to 300	2	10	n/a	n/a	38	Level: 30-50 Rolling: 20-40 Mount.: 20-30	9%	63"	n/a	n/a
Residential Driveway	n/a	1	14	n/a	n/a	20	n/a	10 %	n/a	n/a	n/a

7.11.3. General Requirements. Adequate roads shall be provided such that the arrangement, character, extent, width and grade of each shall conform to this Section.

7.11.3.1. Connectivity. The arrangement of roads in any development shall provide for the continuation or appropriate projection of existing or proposed highway or arterial roads in surrounding areas according to the Official Map, and shall provide reasonable means of ingress and egress to surrounding property. Roads within subdivisions shall not be gated unless the road is a dead end road serving no more than five (5) lots.

7.11.3.2. Road Names. Road names or numbers shall not duplicate or be similar to the names or numbers of existing roads; if the proposed road is an extension of an existing road, then the proposed road shall have the name of the existing road. All road names and numbers shall be assigned by the Santa Fe County Rural Addressing Division.

7.11.3.3. Service Life. Pavement shall be designed for a 20-year service life, and the design of pavement structures shall conform to the New Mexico Standard Specifications for Road and Bridge Construction. Design documentation shall be prepared and signed by, or for, a professional engineer.

7.11.3.4. Rules of If Section 7.11 fails to adequately address



NBD-20

with limits of disturbance (LOD) fencing or construction barriers prior to any grading or clearing.

7.17.6.5. No grading is permitted within one foot of a property line, except for roads driveways and utilities.

7.17.6.6. Temporary fencing shall be installed to protect natural vegetation.

7.17.6.7. Retaining walls shall not exceed ten (10) feet in height.

7.17.7. Restoration of Disturbed Areas.

7.17.7.1. Disturbed areas not stabilized by landscaping shall be permanently revegetated to approximate the density and species or vegetation at the site prior to grading.

7.17.7.2. Abrupt angular transitions and linear slopes shall be stabilized.

7.17.7.3. All structures except retaining walls or soil stabilization improvements shall be set back from the crest of fills or the base of cuts for a minimum distance equal to the depth of the fill or the height of the cut, unless a structurally sound retaining wall is built for the cut or fill slope. Retaining walls may be part of a building.

7.17.8. [Reserved]

7.17.9 Steep Slopes, Ridge tops, Ridgelines, and Shoulders.

7.17.9.1 Applicability. This Section applies to development of any structure on a slope whose grade exceeds fifteen percent (15%), areas where slope exceeds thirty percent (30%); and to a ridge, ridge top, ridgeline, or shoulder.

1. Where a ridgetop measures more than five hundred feet (500') from shoulder to shoulder, the ridgetop standards and requirements shall apply within two hundred feet (200') of the shoulder of the ridge.

7.17.9.2 Standards.

1. No structure may be constructed on a ridge top, ridgeline, or shoulder unless there is no other buildable area on the property. Only single story structures are allowed on ridges, ridge tops, and shoulders.

2. Buildable areas on a ridge top, ridgeline, or shoulder shall be set back 25 (twenty five) feet from the shoulder.

3. No structure may be constructed on a natural slope of thirty percent (30%) or greater.

4. Utilities, drainage structures, slope retention structures, and access roads and driveways may be located on a natural slope in excess of thirty percent (30%) so long as they disturb no more than three separate areas not exceeding 1,000 square feet each.

5. No structure may be constructed on a slope where evidence exists of instability, rock falls, landslides, or other man-made hazards.



NBD-21

SANTA FE + NEW MEXICAN

Founded 1849

LEGAL #83178

CASE # V 17-5210
Ross Bee Variance

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held to consider a request by Ross Bee, Applicant, JenkinsGavin Inc., (Colleen Gavin) Agent, requesting a variance to the requirements set forth in the Sustainable Land Development Code (SLDC) of Chapter 7, Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow an existing roadway to exceed 9% grade and a variance of Chapter 7, Section 7.17.9.2.4 to allow disturbance of 30% slopes in six separate areas. The property is located 40 River Valley Rd. and is zoned Rural Residential (RUR-R) (SDA-2) within Section 32, Township 19 North, Range 10 East, (Commission District 1).

A public hearing will be held in the County Commission Chambers of the Santa Fe County Courthouse, corner of Grant and Palace Avenues, Santa Fe, New Mexico on the 28th day of September 2017, at 3:00 p.m. on a petition to the Santa Fe County Hearing Officer and on the 16th day of November 2017, at 4:00 p.m. on a petition to the Santa Fe County Planning Commission.

Please forward all comments and questions to the County Land Use Administration Office at 986-6225.

All interested parties will be heard at the Public Hearing prior to the Hearing Officer/Planning Commission taking

Continued...

action.

All comments, questions and objections to the proposal may be submitted to the County Land Use Administrator in writing to P.O. Box 276, Santa Fe, New Mexico 87504-0276; or presented in person at the hearing.

Published in the Santa Fe New Mexican on September 13, 2017.



NBD-22

CERTIFICATION OF POSTING

I hereby certify that the public notice posting regarding a Site Development Plan
Case # V17-5210 was posted for 15 days on the property beginning the
13TH day of September 2017. **

Danyelle Valdez
Signature

*Photo of posting taken from a public road must be provided with affidavit.

****PLEASE NOTE:** Public notice is to be posted on the most visible part of the property. Improper legal notice will result in re-posting for an additional 15 days. It is the Applicant's responsibility to ensure that the notice is on the property for the full 15 days. Posted notice shall be removed no later than seven (7) days after a final decision has been made on the application.

STATE OF NEW MEXICO }
COUNTY OF SANTA FE }

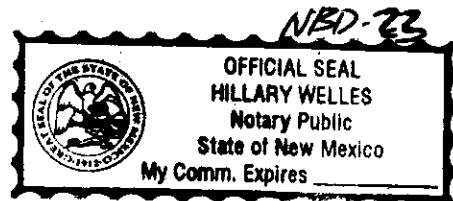
The foregoing instrument was acknowledged before me this 18th day of

September, 2017, By Danyelle Valdez.

Hillary Welles
Notary Public

My Commission Expires:

10/26/2019



RIVER VALLEY RD

PUBLIC NOTICE

Notice is hereby given that an application has been filed with Santa Fe County for A VARIANCE TO THE REQUIREMENTS SET FORTH IN THE SUSTAINABLE LAND DEVELOPMENT CODE (SLDC) OF CHAPTER 7, TABLE 7-1, RURAL ROAD CLASSIFICATION AND DESIGN STANDARDS (SDA-2 AND SDA-3) TO ALLOW AN EXISTING ROADWAY TO EXCEED 9% GRADE AND A VARIANCE OF CHAPTER 7, SECTION 7.17.9.2 TO ALLOW DISTURBANCE OF 30% SLOPES IN SIX SEPERATE AREAS.

Name of Applicant ROSS BEE

Address of Request 40 RIVER VALLEY RD

Legal Description: Section 32

Range 10

Township 19

A PUBLIC HEARING NMPM Santa Fe County, New Mexico.

will be held/ at the Old Santa Fe County Courthouse, corner of Palace and Grant

Avenues, Santa Fe, New Mexico on/ the 28TH day of

SEPTEMBER 2017 at 3:00 P.M. before the SEC HEARING OFFICER

AND ON THE 16TH DAY OF NOVEMBER 2017 AT 4:00 P.M. BEFORE THE SEC PLANNING COMMISSION

Further information can be obtained by contacting the Land Use Department, P.O. Box 276, Santa Fe, NM 87504

Phone (505) 986-6225 Development Permit # 17-5210

NBD-24

PUBLIC NOTICE

Notice is hereby given that an application has been filed with Santa Fe County for a VARIATION TO THE REQUIREMENTS SET FORTH IN THE SUBDIVISION LAND DEVELOPMENT CODE (SDLC) OF CHAPTER 1, TITLE 17, PUBLIC ROAD CREATION AND DESIGN STANDARDS, CODE AND DESIGN STANDARDS, EXISTING ROADWAY TO BE 17' 6" WIDE AND A VARIANCE OF CHAPTER, SECTION 1.17.9.2.4 TO ALLOW DISTANCE OF 30' SIDES IN SIX SEVERAL AREAS.

Name of Applicant: RDS, INC.

Address of Request: 4000 RIVER RD.

Legal Description: Section 32, Township 19

Range 10, NMPM Santa Fe County, New Mexico.

A PUBLIC HEARING will be held at the Old Santa Fe County Courthouse, corner of Palace and Grant Avenues, Santa Fe, New Mexico on the 28TH day of

SEPTEMBER, 2017, at 3:00 PM, before the SFC HEARING OFFICER.

AND ON THE 10TH DAY OF NOVEMBER, 2017, AT 4:00 PM, BEFORE THE SFC PLANNING COMMISSION.

Further information can be obtained by contacting:

the Land Use Department, P.O. Box 276, Santa Fe, NM 87504

Phone: 505/986-6225, Development Permit # V17-0210

NBD-25

Sustainable Land Development Code
Hearing Officer Meeting
September 28, 2017
CASE NO. V17-5210
Ross Bee, Applicant

RECOMMENDED DECISION AND ORDER

THIS MATTER came before the Sustainable Land Development Code Hearing Officer for hearing on September 28, 2017, on the application of Ross Bee, (Applicant) for a Variance of the Sustainable Land Development Code (SLDC). The Applicant seeks a variance of Chapter 7, Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow an existing roadway to exceed 9% grade and a variance of Chapter 7, Section 7.17.9.2.4 to allow disturbance of 30% slopes in six separate areas. The property is located at 40A River Valley Rd. (Property), and is zoned Rural Residential (RUR-R) and Traditional Community (TC) within Section 32, Township 19 North, Range 10 East (Commission District 1). The Hearing Officer, having reviewed the application, staff reports, and having conducted a public hearing on the request, finds that the application is well-taken and should be granted, and makes the following findings of fact and conclusions of law:

1. On July 17, 2017, the Applicant submitted his application for a variance of Chapter 7, Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow an existing roadway to exceed 9% grade and a variance of Chapter 7, Section 7.17.9.2.4 to allow disturbance of 30% slopes in six separate areas. The Applicant intends to construct a 2,500 square foot accessory structure on the Property, which is accessed off S.R. 592 onto River Valley Rd. which is identified as a private road with a (38) ft. right-of-way (ROW) that serves (4) lots. River Valley Rd. was permitted and built under the previous Santa Fe County Land Use



NBD 26

Code and with the adoption of the SLDC, off-side roadway standards changed per Table 7-13, making River Valley Road non-compliant.

2. As required by the SLDC, the Applicant presented the application to the Technical Advisory Committee (TAC) on July 20, 2017, at the regular scheduled monthly meeting, which satisfied the requirements set forth in Chapter 4, Section 4.4.4.3 Pre-application TAC Meeting and Table 4-1.

3. Notice requirements of the SLDC were met pursuant to Chapter 4, Section 4.6.3., General Notice of Application Requiring a Public Hearing. In advance of the hearing on the application, the Applicant provided an affidavit of posting of notice of the hearing, confirming that public notice posting regarding the application was made for fifteen days on the Property, beginning on September 13, 2017. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on September 13, 2017, as evidenced by a copy of that legal notice contained in the record. Notice of the hearing was sent to owners of land within 500' of the subject Property and a list of persons sent a mailing is contained in the record.

4. The following SLDC provisions are applicable to this case:

A. Chapter 8, Section 8.6.4.1. Rural Residential (RUR-R) Purpose provides:

The purpose of the Rural Residential (RUR-R) district is to provide for the development of single-family homes on large lots, either individual or as part of rural subdivisions; to preserve the scenic and rural character of the County; to provide consolidated open space and agriculture lands; and to recognize the desirability of carrying on compatible agriculture operations and home development in areas near the fringes of urban development while avoiding unreasonable restrictions on farming or ranching operations. Uses that support rural character of the broader area shall be allowed including agriculture productions, small-scale renewable energy production, home-based businesses, bed and breakfasts, agro-tourism, equestrian and boarding facilities, farmers markets and produce stands. Density transfers and clustered development shall be allowed in order to support continued farming and/or ranching activities, conserve open space or protect scenic features and environmentally sensitive areas.

B. Chapter 8, Section 8.6.8.1 Traditional Community (TC) Purpose provides:

The purpose of the Traditional Community (TC) district is to designate areas suitable for residential, small-scale commercial and traditional agriculture uses consistent with the existing development patterns of traditional communities. The TC district accommodates traditional community patterns, preserves historic and cultural landscapes, and protects agriculture uses, including agriculture found in traditional communities with acequia systems, from encroachment by development. Density bonuses and transfers of development rights may be utilized to achieve the purposes of the district. Density transfers and clustered development shall be allowed in order to support continued farming and/or ranching activities, conserve open space or protect scenic features and environmentally sensitive areas.

C. Chapter 7, Table 7-13 Rural Road Classification and Design Standards (SDA-2 and SDA-3) (Cul de Sac) requires the road grade be a maximum of 9%.

D. Chapter 7, Section 7.17.9.2.4 (Standards) states:

Utilities, drainage structures, slope retention structures and access roads and driveways may be located on a natural slope in excess of thirty percent (30%) so long as they disturb no more than three separate areas not exceeding 1,000 square feet each.

E. Chapter 4, Section 4.9.7.1, Variances, Purpose, states:

The purpose of this section is to provide a mechanism in the form of a variance that grants a landowner relief from certain standards in this code where, due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner. The granting of an area variance shall allow a deviation from the dimensional requirements and standards of the Code, but in no way shall it authorize a use of land that is otherwise prohibited in the relevant zoning district.

D. Chapter 4, Section 4.9.7.4, Variance Review criteria states:

A variance may be granted by only a majority of all the members of the Planning Commission (or the Board, on appeal from the Planning Commission) based on the following criteria:

1. where the request is not contrary to the public interest;

REC'D - RECORDS SECTION 11/28/2017

2. where due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner; and
3. so that the spirit of the SLDC is observed and substantial justice is done.

E Chapter 4, Section 4.9.7.5 Variance Conditions of approval states:

1. The Planning Commission may impose conditions on a variance request necessary to accomplish the purposes and intent of the SLDC and the SGMP and to prevent or minimize adverse impacts on the general health, safety and welfare of property owners and area residents.
 2. All approved variances run with the land, unless conditions of approval imposed by the Planning Commission specify otherwise.
 3. All approved variances automatically expire within one year of the date of approval, unless the Applicant files a plat implementing the variance or substantial construction of the building or structure authorized by the variance occurs within that time.
7. The Applicant and Staff have addressed the variance criteria for the road grade as follows:

a. *Where the request is not contrary to the public interest.*

i. The Applicant stated that maintaining the existing grades that range from 8.2% to 13.8% with a very small section at 15% will allow the rural roadway to be preserved, as well as the existing Rio en Medio crossing to the north. If the required 9% grade were implemented, the crossing would require a 20 foot high fill with a major bridge structure as indicated in the engineer's Plan and Profile.

ii. Staff acknowledges that the rural roadway and Rio en Medio would be impacted if the Applicant were required to meet the 9% road grade requirement.

b. *Where due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner.*

i. The Applicant stated that River Valley Road is the only means to access the Property. The existing terrain and limited horizontal length of the road from the roundabout to the Rio en Medio do not allow the road to be re-engineered to lower the grades to the requisite 9%.

ii. Staff stated that the portion of River Valley Road from the existing roundabout to the Applicant's driveway doesn't meet the (20) foot driving surface and 9% grade. Acknowledging that River Valley Road has been in existence since November 20, 1963, Staff determined that requiring the Applicant to use approximately (20) ft. of fill to meet the 9% grade would be excessive.

c. *So that the spirit of the SLDC is observed and substantial justice is done.*

i. The Applicant stated that granting the variance would sustain the intent and Spirit of the SLDC by minimizing scarring and disturbance of the natural terrain and preserving the rural nature of the existing road. The proposed road widening will allow for local and emergency vehicles to pass safely

ii. Staff agreed that widening a portion of the road to 20 ft. will bring River Valley Road into compliance, increasing vehicular and pedestrian safety.

8. The Applicant and Staff have addressed the variance criteria for the disturbance of 30% slopes as follows:

a. *Where the request is not contrary to the public interest.*

i. The Applicant stated that most of the slopes which would be disturbed are manmade and the disturbance of slopes in 6 locations to widen the road to the required 20 foot width is in the public interest and will provide a safe and sustainable access for property owners and emergency services to the four lots accessed from the roundabout north.

ii. Staff stated that utilities, drainage structures, slope retention structures, and access roads and driveways may be located on natural slope in excess of thirty percent (30%) so long as they disturb no more than three separate areas not exceeding 1,000 square feet each. Although the SLDC allows three allotted disturbances of 1,000 square feet per disturbance (3,000 square feet total), the total square footage of the six disturbances falls under 3,000 square feet.

b. *Where due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner.*

i. The Applicant stated that River Valley Road was permitted and built under the previous Santa Fe County Land Use Code and by current SLDC standards is noncompliant. However, the only means to access the subject properties is from this road. Although widening the road to 20 ft. disturbs the existing terrain which has naturally occurring (30%) slopes, the road cannot be relocated to areas of lesser slopes.

ii. Staff stated that in order for the Applicant to meet the 20 ft. driving surface, it will be necessary to disturb the existing terrain including ten manmade slopes in order to maintain the required 38 ft. access required by the SLDC.

c. *So that the spirit of the SLDC is observed and substantial justice is done.*

i. The Applicant stated the requested variance minimizes the scarring and disturbance of the natural terrain and provides for safe vehicular and pedestrian traffic. The road widening enhances the livability of the residential neighborhood and allows local and emergency vehicles to pass safely.

ii. Staff stated that although the number of disturbances exceeds the SLDC requirements, the total square footage of natural 30% slope disturbed is less than the total 3,000 square foot disturbance as defined in the SLDC.

9. At the public hearing, no one spoke in opposition to the application.

10. Based on the application and the evidence and testimony presented at the public hearing as described herein, the Hearing Officer finds there is sufficient evidence of extraordinary and exceptional conditions that would result in undue hardship to the Applicant from a strict application of the Code and that the Applicant has met the variance criteria of the SLDC.

WHEREFORE, the Hearing Officer, based on the evidence presented, recommends approval of a Variance of Chapter 7, Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow an existing roadway to exceed 9% grade and a variance of Chapter 7, Section 7.17.9.2.4 to allow disturbance of 30% slopes in six separate areas.

Respectfully submitted,

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

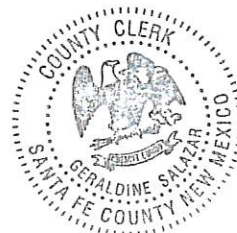
SLDC HEARING OFFICER 0
PAGES: 7

I Hereby Certify That This Instrument Was Filed for
Record On The 20TH Day Of October, 2017 at 10:40:06 AM
And Was Duly Recorded as Instrument # 1839291
Of The Records Of Santa Fe County

Nancy R. Long
Nancy R. Long
Hearing Officer

Date: 10-16-17

Witness My Hand And Seal Of Office
Geraldine Salazar
Deputy *A. Luna Hernandez* County Clerk, Santa Fe, NM



audience that are here in support that didn't speak but I know that you are in agreement with the comments that were made, so I thank you for coming to this hearing this afternoon, and I will make a recommendation. I don't make the final decision. And does this case go to the County Commission?

MS. LUCERO: Hearing Officer Long, this case will actually go forward to the Planning Commission.

HEARING OFFICER LONG: To the Planning Commission.

MS. LUCERO: If I could just make one more comment in regards to your question earlier about the sign?

HEARING OFFICER LONG: Yes. Thank you.

MS. LUCERO: So a cross – basically, the definition of a sign excludes a religious symbol on a place of worship. So this cross would not be considered a sign.

HEARING OFFICER LONG: Thank you for looking that up. I was curious about that. All right, so the next stop will be the Planning Commission and I will issue my recommended decision, that's usually in about two weeks. Thank you all for your attendance this afternoon. I appreciate it.

MR. RODRIGUEZ: I'd like to thank you on behalf of Monsignor Jerome and all his parishioners for your consideration in this request.

III. B. CASE # V17-5210 Ross Bee Variance. Ross Bee, applicant, JenkinsGavin Inc. Colleen Gavin Agent, request a variance to the requirements set forth in the Sustainable Land Development Code (SLDC) of Chapter 7, Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow an existing roadway to exceed 9 percent grade and a variance of Chapter 7, Section 7.17.9.2.4 to allow disturbance of 30 percent slopes in six separate areas. The property is located at 40A River Valley Rd. and is zoned Rural Residential (RUR-R) and Traditional Community (TC) within Section 32, Township 19 North, Range 10 East, (Commission District 1) *[Exhibit 1: Supporting Material]*

MR. ROMERO: Thank you, Hearing Officer Long. The applicant, Ross Bee, is the owner of the property at 40A River Valley Road as indicated by the warranty deed recorded in the records of the Santa Fe County Clerk on January 9, 2017, as Instrument No. 1814386.

The applicant's intention is to construct a 2,500 square foot accessory structure on his property, but, a portion of River Valley Road doesn't meet the off-site road requirements per Chapter 7, Table 7-13: Rural Road Classification and Design Standards. Therefore, the applicant is requesting a variance to allow approximately 215 feet of the existing road to remain at a grade of up to 15 percent, which exceeds the required 9 percent grade as indicated in Table 7-13. The applicant is also requesting a variance of Chapter 7, Section 7.17.9.2.4 to allow disturbance of 30 percent slopes in six separate areas in order to meet the minimum two ten-foot driving lanes, a 20-foot driving surface. The current SLDC allows for three separate disturbances with a maximum area of 1,000 square feet per disturbance. The applicant's engineer has provided a plan and profile for

the 830-foot section of road grade and indicates the proposed areas to be disturbed along River Valley Road.

The property at 40A River Valley Rd. consists of 15.95 acres that lies within the Rural Residential and Traditional Community Zoning Districts. The property is accessed off SR 592 onto River Valley Road, which is identified as a private road with a 38-foot right-of-way that serves four lots.

The applicant's agent states River Valley Road was permitted and built under the previous Santa Fe County Land Use Code and with the adoption of the SLDC, off-site roadway standards changed per Table 7-13, thus deeming River Valley Road non-complaint. Staff has determined that River Valley Road has never been permitted but has been in existence since November 20, 1963. The portion of River Valley Road from the roundabout to the applicant's property line wasn't illustrated as a road until the recordation of an Amended Boundary Survey Plat in July 2001. In 2006 the portion of River Valley Road from SR 592 to the roundabout was improved and built per plan by widening the road to 20 feet adding basecourse and providing adequate drainage. The applicant's engineer along with Santa Fe County staff have confirmed that the portion of River Valley Road from the existing roundabout to the applicant's driveway ranges from 10-15 percent grades with road widths of 12-15 feet. The applicant's agent and engineer have asserted that the portion of River Valley Road from SR 592 to the existing roundabout does meet the requirements of Table 7-13, with a 20-foot all-weather driving surface and a 38-foot right-of-way.

The applicant's agent and engineer state maintaining the existing grades that range from 8.2 percent to 13.8 percent with a very small section at 15 percent will allow the rural roadway to be preserved, as well as the existing Rio en Medio crossing to the north. The applicant's agent and engineer further state if the required 9 percent grade were implemented, the crossing would require 20 feet of fill and a major bridge structure. The existing terrain and limited horizontal length of the road from the roundabout to the Rio en Medio would not allow the road to be re-engineered to lower the grades to 9 percent. The applicant intends to improve approximately 830 feet of River Valley Road by widening the road to 20 feet from the existing roundabout to the applicant's driveway.

The remaining portion of River Valley Road does meet the 20-foot wide requirement as indicated in Table 7-13. However, in order to bring the steeper portion of River Valley Road into compliance, disturbance of 30 percent slopes is necessary. The applicant's engineer has stated that the project will result in a total of 3,117 square foot disturbance of slopes in excess of 30 percent and that most of these slopes are manmade as indicated in the plan and profile. The total amount of natural 30 percent slopes to be disturbed is 1,180 square feet, which will occur in six locations ranging in size from 22 sq. ft. to 468 sq. ft. Chapter 7, Section 7.17.9.2.4, Utilities, drainage structures, slope retention structures, and access roads and driveways may be located on a natural slope in excess of 30 percent so long as they disturb no more than three separate areas not exceeding 1,000 square feet each. The disturbance of manmade slopes is not regulated by the SLDC.

The applicant did respond to the variance criteria and staff did respond to the applicant's variance criteria statements. I add that into the record.

Recommendation: The applicant did provide responses to the variance review criteria. Staff recommends approval of a variance from Ordinance No. 2016-9 the Sustainable

Land Development Code of Chapter 7, Table 7-13, Rural Road Classification and Design Standards to allow an existing roadway to exceed 9 percent grade and Chapter 7, Section 7.17.9.2.4 to allow disturbance of 30 percent slopes in six separate areas.

Staff confirms that a 20-foot driving surface is required for vehicle and pedestrian safety. This allows for safe and efficient access to existing properties. Staff supports the minimal easing of the slope disturbance in order to achieve the 20-foot wide driving surface as total disturbance is less than is allowed by Code. Staff supports the minimal easing of the slope standards. If the applicant were to adhere to the nine percent road grade, it would require the applicant to add 20 feet of fill, which is more intrusive and does not support the spirit of the SLDC.

Staff requests the Hearing Officer memorialize findings of fact and conclusion of law in a written order. The Santa Fe County Planning Commission will be holding a public hearing on this matter on November 16, 2017.

I stand for any questions.

HEARING OFFICER LONG: Thank you. No questions at this time. Will the applicant's agent come forward?

[Duly sworn, Colleen Gavin testified as follows:]

COLLEEN GAVIN: I'm Colleen Gavin, Hearing Officer Long, I just want to thank Mike and the County staff for a very thorough review and report. We are in agreement with the staff's recommendation of approval and happy to stand for any questions.

HEARING OFFICER LONG: The staff is agreeing that the variance is the least intrusive way to handle this situation, and there are no other conditions that are attached to it other than recommending approval. I did see in the report that there is no regulation of man-made slopes and that is the majority of slopes – is that next to the roadway?

MS. GAVIN: Yes. So when the road was built, apparently around 2001 I believe, obviously there was man-made disturbance to the side slopes for drainage improvements and cutting back of that road. So in the analysis of the existing road the majority of the 30 percents that would be disturbed with the widening to 20 feet, the majority of that, about 2,000 of that consists of man-made slopes. And that was verified in the field by our civil engineer, Design Engenuity, as well as our surveyors.

HEARING OFFICER LONG: And what are the road improvements that in summary you will be making? Widening the right-of-way to 20 feet?

MS. GAVIN: Well, actually, the right-of-way will remain as it. There's currently a 38-foot right-of-way.

HEARING OFFICER LONG: So you don't have to seek any additional right-of-way.

MS. GAVIN: There's no additional right-of-way required, so we are in compliance with the roadway standards for this road. The improvements that will be made is extending the drivable surface to 20 feet in width. Currently it ranges between 12 and 15 feet. And then there will be the required drainage improvements adjacent to the roadway to control any type of runoff.

HEARING OFFICER LONG: Okay. Thank you. Let me ask if there is anyone here today at this hearing that would like to speak to this application, the Ross Bee application. And I will note that there is no one that wishes to speak to the

application other than the applicant and the applicants agent and the representatives that are here today. Okay. I don't have any other questions. Thank you.

III. C. CASE #V17-5140: Patrick Cameron & Karyn Baum Variance. **TABLED**

III. D. **CASE # V 17-5220 Ted & Barbara Seeley Variance. Ted and Barbara Seeley, applicants, request a variance of Ordinance No. 2016-9, the Sustainable Land Development Code (SLDC as amended), Chapter 7.11, Table 7-13, Road Design Standards (SDA-2 and SDA-3) to allow a roadway to be less than 20 feet in width with occasional pull-outs for traffic, to allow an easement of less than 38 feet, and to allow the roadway to exceed a nine percent grade in order to allow the issuance of a development permit. The property is located at 57 Don Filomeno Road within Section 36, Township 19 North, Range 9 East (Commission District 1) SDA-2**

JOHN MICHAEL SALAZAR (Case Manager): Thank you, Hearing Officer Long. On April 4, 2017, the applicants submitted a development permit application for a residential addition. The applicants are proposing to add 1,126 square feet for a two-story new master bedroom and closet with an additional bedroom on the second floor on the existing residence along with a portal to an existing studio. As stated in the caption, the applicants are requesting a variance to allow a roadway to be less than 20 feet in width with occasional pullouts for traffic and to allow the roadway to exceed a nine percent grade in order to allow the issuance of this development permit.

The noticed variance to allow an easement of less than 38 feet is not required as the SLDC allows the easement to be 20 feet for residential uses and this property does have a 20-foot easement.

The variances sought by the applicants are to allow a roadway to be less than 20 feet in width, and to allow the roadway to exceed a nine percent grade. Chapter 7, Section 7.11.11.5 does allow a reduction of road easement to no less than 20 feet if adequate drainage control is provided for residential development.

Don Filomeno Road is hard-packed dirt. It has two instances in which the grade exceeds 9 percent, one instance is approximately 13 percent and the other is approximately 20 percent, and is as narrow as eight feet in some areas and as wide as twelve feet in others. The existing right-of-way is platted at 20 feet however most areas along Don Filomeno have drop-offs or inclines on either side of the road either at or in excess of 30 percent slopes. Due to the natural terrain there is no feasible way for the applicants to widen the road or reduce the grade.

The applicants addressed the variance criteria and staff provided its interpretation of how the proposal met or fails to meet the variance criteria as noted in the staff report.

Chapter 7, Section 7.17.1.6, Terrain Management, the purpose of the terrain management section – it states, Hearing Officer Long, that the purpose of this section is to appropriately locate roads, driveways and utilities so as to minimize unsightly cut and fills and scarring. Upgrading Don Filomeno Road will create unsightly cut and fill areas as well as scarring. Therefore, staff recommends approval of the applicants' request for a variance to allow a roadway to be less than 20 feet in width, and to allow the roadway to