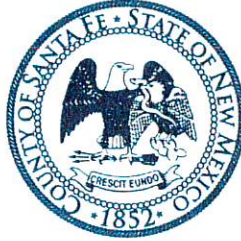


Henry P. Roybal
Commissioner, District 1

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: December 21, 2017

TO: Santa Fe County Planning Commission

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

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

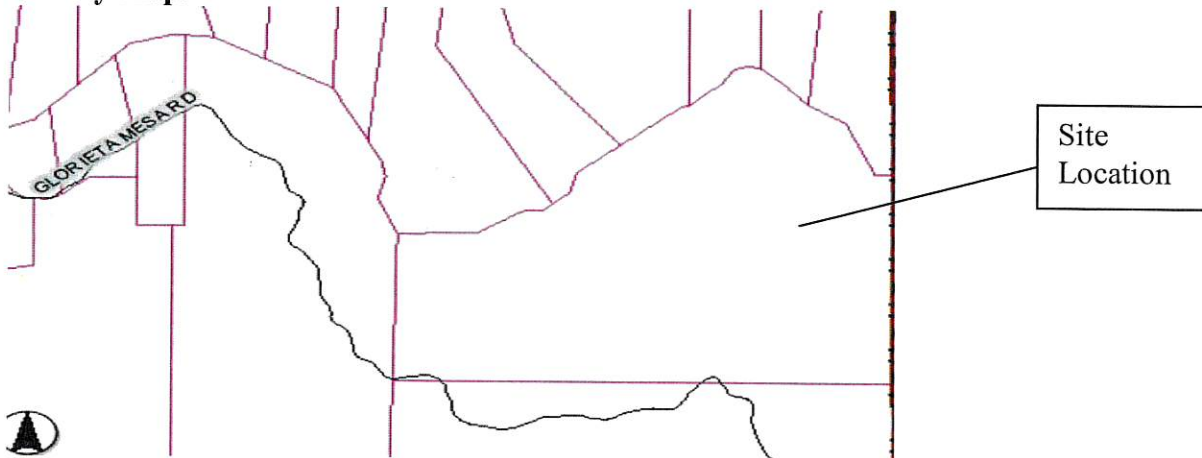
FILE REF.: CASE # V17-5090 Fredance, LLC Variance

ISSUE:

Fredance, LLC, Applicant, Sommer, Karnes and Associates (Joseph Karnes) 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 to allow a road with a 30 ft. Right-of-Way rather than the required 50 ft. Right-of-Way for local roads.

The property is located within the Rural Fringe Zoning District at 325 Glorieta Mesa Road, within Section 12, Township 15 North, Range 11 East (Commission District 4).

Vicinity Map:



SUMMARY:

On October 26, 2017, the Application was presented to the Hearing Officer. The Hearing Officer recommended disapproval of a variance of Chapter 7, Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow a road with a 30 foot Right-of-Way rather than the required 50 foot Right-of-Way for local roads for non-residential uses.

At this time, the Applicant has not submitted an application for a Site Development Plan (SDP) for the Crystal Earth Pavilion, which is the proposed non-residential use. Since the Hearing Officer meeting on October 26, 2017, the Applicant's agent has provided a letter stating that the non-residential use (Crystal Earth Pavilion) is expected to generate about the same amount of traffic as one single family dwelling. However, since the application for the SDP has not been submitted and a Traffic Impact Analysis (TIA) has not been provided by the Applicant, it is not clear how much traffic would be generated by the Pavilion to support this theory. The ROW width could limit the ability to install future necessary improvements, thereby limiting the type and intensity of development on the property. ROW's can be utilized for future improvements; speed change lanes, acceleration lanes, deceleration lanes, drainage, utilities, etc.

The Applicant, Fredance, LLC is the owner of the property at 325 Glorieta Mesa Road as indicated by the warranty deed recorded in the records of the Santa Fe County Clerk on January 9, 2007, as Instrument No. 1466386. The applicant is requesting a variance to allow a right-of-way easement to be less than the required 50 ft. right-of-way easement for local roads providing access for non-residential uses.

The property at 325 Glorieta Mesa Road consists of 164.5 acres within the Rural Fringe Zoning District. The property is accessed off of S.R. 50 onto La Joya Rd., which is a County maintained road. La Joya Rd. turns into Forest Service Rd. 612, which is a U.S. Forest Service maintained Public Road, which then turns onto U.S Forest Service Road 612B, which is identified as a Private Forest Service Road (USFS) with a 30 ft. right-of-way (ROW) easement that is approximately 2.1 miles long and then turns into Glorieta Mesa Rd., which is a private road that is approximately 1.8 mile long. Glorieta Mesa Road has a 30 ft. easement.

The Applicant states that they along with their development partner will be proposing a non-residential religious use on a portion of the subject property. A religious use is a permitted use per the SLDC. However, any non-residential use requires a minimum 50 ft. ROW for local roads up to the point where they access a Public Road. Therefore, the Applicant is requesting a variance to allow a 30 ft. ROW prior to proceeding with their application for the religious use.

The Applicant requests a variance of Chapter 7, Table 7-13, Rural Road Classification and Design Standards to allow 2.1 miles of an existing Private U.S. Forest Service Road and a 1.8 mile portion of Private Easement (Glorieta Mesa Road) to have a 30 ft. ROW rather than the required 50 ft. right-of way easement required in Ordinance No. 2016-9, the Sustainable Land Development Code (SLDC) Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3) for Local Roads. The design standards for Local Roads are 2, 10 ft. driving lanes with a minimum ROW of 50 ft., and a 9% max grade with 3 inches of base course (Exhibit 4).

The Applicant's agent states, to facilitate future development of the subject property, which is not proposed by this application, the Applicant requests a variance to the road easement standard for the existing U.S. Forest Service Road Easement (2.1 miles) and the Private Easements (1.8 miles). The Private U.S. Forest Service Easement along with the Private Easements and the existing road within those easements otherwise comply with the SLDC requirements. In 2003, the U.S. Forest Service granted the USFS Easement to the Glorieta Mesa Ranch Road Maintenance Association, which was comprised of the owners of properties within the Pecos Pueblo Land Grant east of U.S. Forest Service Road 612B, including the Applicant. The 30 ft. wide Private Easement was created in 2005 by a Summary Review Subdivision and Lot Line Adjustment Plat, book 587 page 015. There is an existing road within the USFS Easement and the Private Easement that provides access to lands and existing development within the association, including the subject property. The Applicant's agent further states in conjunction with this application, County Growth Management Department and County Fire Department staff carried out a site visit and concluded that the existing road within the USFS Easement and the Private Easement complies with applicable SLDC requirements, except perhaps for some areas where road maintenance is needed to maintain an effective road width of 20 ft.

Staff Response:

U.S. Forest Service Road 612B and Glorieta Mesa Road are required to meet Santa Fe County Road Standards for local roads which would require two driving lanes, each lane must be a minimum of 10 ft. in width, a max grade of 9%, a 50 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 ROW, not a variance to the road improvements. Staff conducted a site visit and feels that the off-site road (Glorieta Mesa Rd.) is in good condition and with some maintenance can meet the SLDC requirements for width.

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

Chapter 8, Section 8.6.3. Rural Fringe (RUR-F) Purpose:

The purpose of the Rural Fringe (RUR-F) district is to designate areas suitable for a combination of estate-type residential development, agriculture uses and other compatible uses. The RUR-F designation provides an intermediate step in development density between typical open space and agricultural/ranching lands and primarily residential (low density) parcels. This zone also serves to protect agricultural and environmental areas that are inappropriate for more intense development due to their sensitivity. The RUR-F zone accommodates primarily large lot residential, ecotourism, equestrian uses and renewable resource-based activities, seeking a balance between conservation, environmental protection and reasonable opportunity for development. 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's agent addresses the Variance Criteria as follows and Staff provides its interpretation of how the proposal meets or fails to meet the variance criteria:

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

Applicant's Statement: In 2003, the U.S. Forest Service granted the USFS Easement to the Glorieta Mesa Ranch Road Maintenance Association, which is comprised of the owners of properties within the Pecos Pueblo Land Grant east of Forest Road 612B, including the Applicant. The 30-foot-wide Private Easement was created in 2005. There is an existing road within the USFS Easement and the Private Easement that provides access to lands and existing development within the Association, including the Subject Property. In conjunction with this application, County Growth Management Department and County Fire Department staff carried

out a site visit and concluded that the existing road within the USFS Easement and the Private Easement complies with applicable SLDC requirements, except perhaps for some areas where road maintenance is needed to maintain an effective road width of 20-feet. In sum, the existing road within the USFS Easement and the Private Easement is adequate and the easements themselves were adequate to issue several development permits prior to adoption of the SLDC, but the 30-foot wide USFS Easement and Private Easement do not comply with the current SLDC width requirement of 50-feet. Approval to the requested variance would allow for the USFS Easement and private Easement and the existing road to continue being used for vehicular access to the Subject Property and for development to occur on the Subject Property, subject to future approval of a development plan and permit application. Given the rural nature of the area and the relatively limited number of properties served by the USFS Easement and the Private Easement, and the low-intensity zoning adopted by the SLDC, it is not likely that the existing road within the USFS Easement or the Private Easement will ever need to be expanded beyond its existing 2-lane, minimum 20' wide condition. Allowing for the existing USFS Easement and road to be utilized for their intended purpose of serving properties within the Association and development thereon furthers the public interest and is not contrary to the public interest.

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. However, a non-residential use requires a minimum 50 ft. ROW for local roads up to the point where they access a Public Road. Staff has confirmed with Santa Fe County Fire Prevention that by granting the variance to allow a 30 foot ROW would not affect public safety as long as a 20 foot unobstructed roadway was provided and the Applicant met the road requirements of the Fire Code. Therefore, the approval of the variance would not be contrary to the 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 and undue hardship to the owner;

Applicant's Statement: Strict application of the SLDC would mean that the USFS Easement and the Private Easement and the Code-compliant road within those easements could not be used to access development on the Subject Property. The USFS Easement has been in existence for over 16 years and the Private Easement has been in existence for 12 years, and until adoption of the SLDC those easements were sufficient for issuance of development permits for other properties within the Association. A County Code revision resulting in the inability to develop the Subject Property for otherwise Code-compliant uses would result in undue hardship to the applicant. Achieving grant of a new easement by the USFS and the private owners would cause peculiar and exceptional practical difficulties and may be impossible to achieve. Such a burden would likely have the practical effect of rendering the subject property and the other properties served by the USFS Easement and Private Easement impracticable. The circumstance resulting from the new SLDC easement

width requirement and its impact on the USFS Easement and the Private Easement was not caused by the applicant and constitutes an extraordinary and exceptional situation that is contrary to the intent of the USFS when it granted the USFS Easement and the private owners in granting the Private Easement.

Staff Response: The SLDC would allow residential development, Land Divisions and Subdivision exemptions with a minimum ROW of 30 ft. However, for non-residential development meeting local road standards, the minimum ROW required would be 50 ft.

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

Applicant's Statement: As addressed above, County staff has concluded that the existing road within the USFS Easement and the Private Easement complies with applicable SLDC standards. It is only the (paper) easement that does not comply with the SLDC easement width requirement. The County zoned the subject Property as Rural Fringe. Approval of the requested variance will facilitate economically productive use of the Subject Property in a manner consistent with the existing zoning, thereby furthering the spirit of the SLDC and ensuring that substantial justice is done to ameliorate a Code conflict with the USFS Easement granted by the United States and the Private Easement, which was not caused by the Applicant. As shown on the attached site plan, the Applicant and its development partner, The Wholeness, a non-profit organization, desire to achieve a religious use on a portion of the Subject Property offering an all-denominational direct spiritual experience of the natural healing and awakening frequencies of Mother Earth, as amplified and made more accessible by the crystal Mahavakya Technology. The private facilities desired to be established on a portion of the Subject Property include a Crystal Earth Pavilion and other ancillary structures to enable guests to enjoy an optimum personal communion with Mother Earth. Resolution of the existing access issue by approval of the requested variance is a prerequisite to submittal of a development plan and permit applicant to allow for the desired religious use on the Subject Property.

Given that the variance is a necessary pre-requisite for achievement of the desired use, this application triggers the Religious Land Use and Institutionalized Persons Act of 2000 (42 U.S.C. §§ 2000cc, *et seq.*), which prohibits governmental action that:

1. treats churches or other religious assemblies or institutions on less than equal terms with nonreligious institutions;
2. discriminates against any assemblies or institutions on the basis of religion or religious denomination;
3. totally excludes religious assemblies from a jurisdiction; or
4. unreasonably limits religious assemblies, institutions, or structures within a jurisdiction.

Staff Response: Chapter 8, Section 8.6.3. of the SLDC, Rural Fringe zoning district allows religious facilities as a permitted use as specified in Appendix B: Use Matrix. A permitted use application is subject to an administrative approval, provided that it meets the design standards of the SLDC.

As required by the SLDC, the Applicant presented the Application to the Technical Advisory Committee (TAC) on February 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 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 October 11, 2017. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on October 11, 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 April 21, 2017.

This Application was scheduled to go before the Santa Fe County Hearing Officer on June 22, 2017. However, this case had to be tabled three times due to legal access/easement issues with the United States Forest Service (USFS). At this time the USFS has confirmed that they will be working with the Applicants to amend the easement agreement in order to provide legal access.

RECOMMENDATION:

This matter went before the Hearing Officer for a hearing on October 26, 2017. The Hearing Officer recommended disapproval of a variance of Chapter 7, Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow a road with a 30 foot Right-of-Way rather than the required 50 foot Right-of-Way for local roads for non-residential uses.

The Hearing Officer recommended denial of the variances based on that the application and evidence and testimony presented at the public hearing was not providing sufficient evidence of extraordinary and exceptional conditions of the Property that would result in undue hardship to the Applicant from a strict application of the Code and that the Applicant has not met the variance criteria of the SLDC. The Hearing Officer stated that the Applicant referenced the Religious Land Use and Institutional Persons Act (RLUIPA) stating its prohibition on treating churches of other religious assembles or institutions differently from non-religious institutions. The Applicant did not, however, provide any showing or evidence of the County treating a non-religious institution differently than this application. The Applicant provided no cases or examples to the Hearing Officer of any unequal treatment of the application compared to other non-religious applications.

Since the time of the Hearing Officer meeting, the Applicant's agent has provided a letter stating that the non-residential use (Crystal Earth Pavilion) is expected to generate about the same amount of traffic as one single family dwelling. However, since the application for the SDP has not been submitted and a Traffic Impact Analysis (TIA) has not been provided by

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

505-995-2740 www.santafecountynm.gov

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the Applicant, it is not clear how much traffic would be generated by the Pavilion to support this theory.

Staff has confirmed with Santa Fe County Fire Prevention that granting the variance to allow a 30 foot ROW would not affect public safety as long as a 20 foot unobstructed roadway was provided and the Applicant met the road requirements of the Fire Code.

Staff recommends approval of a variance from Ordinance No. 2016-9 the Sustainable Land Development Code (SLDC) Chapter 7, Table 7-13, Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow a 30 foot Right-of-Way rather than the required 50 foot Right-of-Way for a non-residential use subject to the following conditions:

1. No development permits will be issued to the Applicant unless and until the new easement agreement has been issued and recorded by the United States Forest Service (USFS).
2. If the proposed development will generate more traffic than a single family residence (10 trips per day), a Traffic Impact Analysis will be required with the Site Development Plan application. If it is determined at that time that additional road improvements are warranted which require additional easement, the Applicant will be responsible for acquiring the additional ROW.

If the decision of the Santa Fe County Planning Commission is to deny the Application, the Planning Commission may consider adopting the finding of fact and conclusion of law in the written recommendation from the Hearing Officer (Exhibit 7).

EXHIBITS:

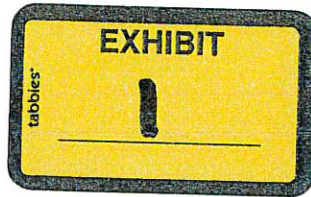
1. Applicants Request
2. Recorded Survey Plat
3. Aerial of Site and Surrounding Area
4. Chapter 7, Table 7-13 Rural Road Classification and Design Standards
5. Noticing
6. Road Access to 325 Glorieta Mesa Road
7. Hearing Officer Final Order/Meeting Minutes
8. Letter from Applicant's Agent

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Of Counsel

June 14, 2017

Miguel Romero, Case Planner
Santa Fe County Growth Management Department
102 Grant Avenue
Santa Fe, NM 87501

Re: Fredance, LLC Variance Application Submittal (Updated)

Dear Jon:

On behalf of Fredance, LLC, please find the attached documents comprising the Application for a variance to the requirements set forth in SLDC Table 7-13 requiring a minimum right-of-way of 50 feet for local roads providing access for non-residential uses and to SLDC section 7.11.11 regarding road access. As addressed below, the 164.5 acre subject property (the "Subject Property") is accessed via Forest Road 612B pursuant to a 30-foot ROW easement granted by the United States Forest Service (the "USFS Easement") and across a stretch private land pursuant to a 30-foot ROW (Book 587 Page 015, the "Private Easement"). The application requests a variance to allow for the USFS Easement and the Private Easement and the existing road within those easements to be used to access future non-residential development on the subject property, which requires a 50-foot easement width.

Please find attached the following documents comprising the Application:

1. Application Fee check #7027 in the amount of \$900.00;
2. Completed Santa Fe County/Fire Department Application Form;
3. Approved Emergency 911 Assigned Address form;
4. Warranty Deed in to Fredance, LLC (Instrument No. 14662386);
5. Survey Plat showing the Subject Property (Book 623, page 34);
6. Vicinity Map with directions;
7. Proof of Taxes Paid;
8. Site Plan to scale, including detail of the Subject Property showing planned future development that is not part of this application;
9. Plat showing existing USFS Easement – subject of the variance request (Book 525, page 024);
10. USFS Easement with the Glorieta Mesa Ranch Road Maintenance Association (the "Association") – subject of the variance request (Book 2638, pages 848-851); and

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Miguel Romero

June 14, 2017

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11. Plat showing 50' access easement from USFS Easement to the Subject Property (Book 691, page 049).
12. Plat Showing Private Easement recorded in Plat Book 587 Page 015.

The Subject Property is 164.5 acres in size and is currently vacant. To facilitate future development of a portion of the Subject Property, which is not proposed by this application, the applicant requests a variance to the road easement standard for the existing USFS Easement and the Private Easements. The USFS Easement and the Private Easements and the existing road within those easements otherwise comply with SLDC requirements.

As shown on the attached site plan, the applicant and its development partner, The Wholeness, a non-profit organization, desire to achieve a non-residential religious use on a portion of the Subject Property offering an all-denominational direct spiritual experience of the natural healing and awakening frequencies of Mother Earth, as amplified and made more accessible by the crystal Mahavakya Technology. The private facilities desired to be established on a portion of the Subject Property include a Crystal Earth Pavilion and other ancillary structures to enable guests to enjoy an optimum personal communion with Mother Earth. Resolution of the existing access issue by approval of the requested variance is a prerequisite to submittal of a development plan and permit applicant to allow for the desired religious use on the Subject Property, which is planned to be submitted if this variance application is approved.

Access to the Subject Property is from SR 50, which provides access between Glorieta and Pecos is as follows: turn right on La Joya Road, which is a County-maintained public road. La Joya Road bears south, ascends Glorieta Mesa and becomes Forest Road 612, a US Forest Service-maintained public road. At the top of Glorieta Mesa, turn left on Forest Road 612B and proceed east to the Subject Property. The 30-foot wide USFS Easement (aka Glorieta Mesa Road) extends from its intersection with Forest Road 612 east to the east boundary of the Santa Fe National Forest, which is coterminous with the west boundary of the Pecos Pueblo Grant (see Book 525, page 024). Glorieta Mesa Road continues to the east, providing access to the Subject Property and other developed and undeveloped properties within the Association via the Private Easement and then via a 50-foot wide access easement across private land (see Book 691 Page 049).

The Planning Commission may grant a variance based on satisfaction of the criteria addressed below. The applicant requests a variance to the requirements set forth in SLDC Table 7-13 requiring a minimum right-of-way of 50 feet for local roads and to SLDC section 7.11.11 regarding road access to allow for the 30-foot wide USFS Easement and the 30-foot wide Private Easement to be used to serve future development on the Subject Property, which the applicant intends be carried out pursuant to a future development plan and development permit application.

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

Response: In 2003, the U.S. Forest Service granted the USFS Easement to the Glorieta Mesa **NBC-10**

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Miguel Romero

June 14, 2017

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Ranch Road Maintenance Association, which is comprised of the owners of properties within the Pecos Pueblo Land Grant east of Forest Road 612B, including the applicant. The 30-foot wide Private Easement was created in 2005. There is an existing road within the USFS Easement and the Private Easement that provides access to lands and existing development within the Association, including the Subject Property. In conjunction with this application, County Growth Management Department and County Fire Department staff carried out a site visit and concluded that the existing road within the USFS Easement and the Private Easement complies with applicable SLDC requirements, except perhaps for some areas where road maintenance is needed to maintain an effective road width of 20-feet. In sum, the existing road within the USFS Easement and the Private Easement is adequate and the easements themselves were adequate to issue several development permits prior to adoption of the SLDC, but the 30-foot wide USFS Easement and Private Easement do not comply with the current SLDC width requirement of 50-feet.

Approval to the requested variance would allow for the USFS Easement and private Easement and the existing road to continue being used for vehicular access to the Subject Property and for non-residential development to occur on a portion of the Subject Property, subject to future approval of a development plan and permit application. Given the rural nature of the area and the relatively limited number of properties served by the USFS Easement and the Private Easement, and the low-intensity zoning adopted by the SLDC, it is not likely that the existing road within the USFS Easement or the Private Easement will ever need to be expanded beyond its existing 2-lane, minimum 20' wide condition. Allowing for the existing USFS Easement and road to be utilized for their intended purpose of serving properties within the Association and development thereon furthers the public interest and is not contrary to the 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 and undue hardship to the owner;

Response: Strict application of the SLDC would mean that the USFS Easement and the Private Easement and the Code-compliant road within those easements could not be used to access the planned non-residential development on the Subject Property. The USFS Easement has been in existence for over 16 years and the Private Easement has been in existence for 12 years, and until adoption of the SLDC those easements were sufficient for issuance of development permits for other properties within the Association. A County Code revision resulting in the inability to develop the Subject Property for otherwise Code-compliant non-residential uses would result in undue hardship to the applicant. Achieving grant of a new easement by the USFS and the private owners would cause peculiar and exceptional practical difficulties and may be impossible to achieve. Such a burden would likely have the practical effect of rendering the subject property and the other properties served by the USFS Easement and Private Easement impracticable for their intended non-residential religious purpose. The circumstance resulting from the new SLDC easement width requirement and its impact on the USFS Easement and the Private Easement was

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Miguel Romero

June 14, 2017

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not caused by the applicant and constitutes an extraordinary and exceptional situation that is contrary to the intent of the USFS when it granted the USFS Easement and the private owners in granting the Private Easement.

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

Response: As addressed above, County staff has concluded that the existing road within the USFS Easement and the Private Easement complies with applicable SLDC standards. It is only the (paper) easement that does not comply with the SLDC easement width requirement. The County zoned the subject Property as Rural Fringe. Approval of the requested variance will facilitate economically productive use of the Subject Property in a manner consistent with the existing zoning, thereby furthering the spirit of the SLDC and ensuring that substantial justice is done to ameliorate a Code conflict with the USFS Easement granted by the United States and the Private Easement, which was not caused by the applicant.

Given that the variance is a necessary pre-requisite for achievement of the desired non-residential use, this application triggers the Religious Land Use and Institutionalized Persons Act of 2000 (42 U.S.C. §§ 2000cc, *et seq.*), which prohibits governmental action that:

- (1) treats churches or other religious assemblies or institutions on less than equal terms with nonreligious institutions;
- (2) discriminates against any assemblies or institutions on the basis of religion or religious denomination;
- (3) totally excludes religious assemblies from a jurisdiction; or
- (4) unreasonably limits religious assemblies, institutions, or structures within a jurisdiction.

We appreciate County staff's efforts to identify the entitlements necessary to achieve the applicant's objectives and look forward to working with you to process the applicant and present it to the Planning Commission.

Please confirm your receipt of this information, let me know whether the application is deemed complete and direct any questions concerning the foregoing to my attention.

Sincerely,


Joseph M. Karnes

NEC-12



14671435513
COUNTY OF SANTA FE
STATE OF NEW MEXICO
I hereby certify that this instrument was filed for record on the 16 day of May, 2006 A.D. at 4:30 o'clock P.M. and was duly recorded in book 534, page(s) 022 of the records of Santa Fe County.
Witness my Hand and Seal of office
VALERIE ESPINOZA
County Clerk, Santa Fe County, N.M.
Deputy



LINE	BEARING	DIST
L1	S23°17'52"E	81.59'
L2	S37°22'41"E	237.39'
L3	S57°14'41"E	243.32'
L4	S68°27'53"E	195.76'
L5	S77°17'15"E	323.20'
L6	S86°38'33"E	379.07'
L7	S87°36'13"E	236.20'

LEGEND
BEARINGS ARE DERIVED FROM GPS OBSERVATIONS, REFERRED TO THE NAD 83 STATE PLANE, CENTRAL ZONE MERIDIAN. DISTANCES ARE GROUND. GROUND TO GRID SCALE FACTOR 0.999584
● F DENOTES BRASS CAP, OR AS SHOWN, FOUND
● R DENOTES REBAR, OR AS SHOWN, FOUND
● S DENOTES SET
● C DENOTES CALCULATED POINT NOT SET
A/E DENOTES PRIVATE ACCESS AND PUBLIC UTILITY EASEMENT
C/L DENOTES CENTERLINE
C/L DENOTES CENTERLINE OF NATURAL DRAINAGE WAY EASEMENT (INCLUDES A 25' NO-BUILD SETBACK FROM EDGES OF DRAINAGE CHANNEL.)
● DENOTES 5 AC. BUILDING SITE, SLOPES LESS THAN 15% AS SHOWN ON PLAT BOOK 534, PAGE 022.
BOUNDARY DATA IN PARENTHESIS IS FROM PRIOR PLATS OR DOCUMENTS
— DENOTES BOUNDARY OF LANDS DEALT WITH BY THIS PLAT. INFORMATION OUTSIDE OF THIS BOUNDARY IS BACKGROUND INFORMATION ONLY, NOT VERIFIED FOR ACCURACY AND IS NOT PART OF THIS PLAT.
THIS PLAT SUBJECT TO ANY RESTRICTIONS, COVENANTS AND EASEMENTS OF RECORD.

REFERENCE DOCUMENTS:
1) BLM NOTES AND PLATS PLAT OF SURVEY FOR GARY AND JEANNE LYON BY GEORGE VEDELER, DATED MAY 13, 1983.
2) WARRANTY DEED, BOOK 1272, PAGE 311.
3) BOUNDARY SURVEY FOR WINSTAR BY SALVADOR VIGIL, DATED MAY 15, 1996, BOOK 30, PAGE 122.
4) 140 AC. EXEMPTION PLAT, RECORDED IN BOOK 534, PAGE 022.
5) LOT LINE ADJUSTMENT PLAT RECORDED IN BOOK 560, PAGE 001.

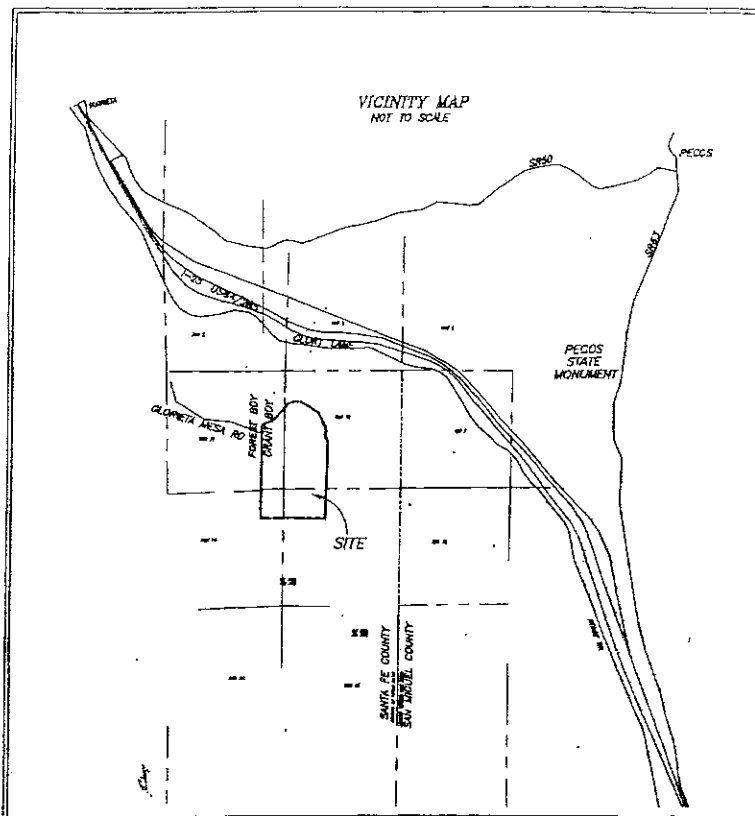
SURVEYORS CERTIFICATE
I HEREBY CERTIFY THAT THIS PLAT IS A TRUE REPRESENTATION OF A SURVEY COMPLETED UNDER MY PERSONAL SUPERVISION ON THE 23rd DAY OF MARCH, 2006, TO THE BEST OF MY KNOWLEDGE, THE SURVEY AND PLAT ARE CORRECT, TRUE AND MEET THE MINIMUM STANDARDS FOR LAND SURVEYS IN NEW MEXICO.
GARY E. DAWSON, N.M.P.L.S. 7014

AFFIDAVIT
KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED OWNER(S) HAVE CAUSED TO BE REPLATED THOSE LANDS SHOWN HEREON, FOR THE PURPOSE OF ADJUSTING THE EXISTING LOT LINES. THE SAID ADJUSTMENT PLAT IS MADE WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF SAID OWNER(S). THIS REPLAT IS SUBJECT TO ALL APPLICABLE NOTES, CONDITIONS AND EASEMENTS SHOWN ON 140 AC. EXEMPTION PLAT RECORDED IN BOOK 534, PAGE 022. THIS REPLAT CONTAINS 622 ACRES, MORE OR LESS, THERE IS NO ROAD DEDICATION.
OWNERS: FREEDANCE, LLC. AND PADRE SPRINGS, LLC.
BY: Bob Sherwin, MANAGING DIRECTOR.
STATE OF NEW MEXICO
COUNTY OF SANTA FE
THE FOREGOING INSTRUMENT WAS SWORN, ACKNOWLEDGED AND SUBSCRIBED BEFORE ME BY BOB SHERWIN, MANAGING DIRECTOR OF FREEDANCE, LLC, THIS 16 DAY OF May, 2006.
NOTARY PUBLIC
6/13/06
MY COMMISSION EXPIRES

SANTA FE COUNTY APPROVAL NOTES AND CONDITIONS
APPROVED BY: [Signature] 5-11-06
LAND USE ADMINISTRATOR DATE
RURAL ADDRESSING DATE
COUNTY DEVELOPMENT PERMIT NO. 06-3060
MAINTENANCE OF ACCESS ROADS AND UTILITY EASEMENTS IS THE RESPONSIBILITY OF THE LAND OWNER/USER UNLESS CURRENTLY MAINTAINED BY THE SANTA FE COUNTY PUBLIC WORKS DEPARTMENT OR STATE HIGHWAY DEPARTMENT.
THE APPROVAL OF THIS PLAT DOES NOT CONSTITUTE THE APPROVAL OF ANY FURTHER DEVELOPMENT, INCLUDING BUILDING PERMITS.
LANDS SHOWN HEREON LIE WITHIN ZONE "X" (LANDS OUTSIDE THE 500 YEAR FLOOD PLAIN) ACCORDING TO THE FEDERAL FLOOD INSURANCE RATE MAP PANEL No. 350069-02758, DATED 11/4/88.
EXISTING NATURAL DRAINAGE WAYS WILL NOT BE MODIFIED OR IMPEDED WITHOUT THE WRITTEN APPROVAL OF THE LAND USE ADMINISTRATOR OR COUNTY LAND USE ADMINISTRATOR OR COUNTY HYDROLOGIST. DEVELOPMENT SHALL NOT IMPEDE HISTORIC FLOW RATES OR PATTERNS TO OR FROM THESE LOTS.
SANTA FE COUNTY'S APPROVAL OF THIS SURVEY PLAT DOES NOT INCLUDE THE CONSTRUCTION OF THE PRIVATE EASEMENT(S) OR ROAD(S) AS SHOWN. PRIOR TO THE CONSTRUCTION OF SAID PRIVATE EASEMENT(S) OR ROAD(S), IT IS REQUIRED THAT AN ADDITIONAL DEVELOPMENT PERMIT BE APPLIED FOR AND THEN APPROVED BY THE SANTA FE COUNTY LAND USE ADMINISTRATOR.
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.
THESE LOTS ARE SUBJECT TO SANTA FE COUNTY FIRE AND RESCUE IMPACT FEES AT THE TIME OF APPLICATION FOR BUILDING PERMIT.
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 ENVIRONMENTAL DEPARTMENT WHETHER THESE SOILS ARE SUITABLE FOR A CONVENTIONAL SEPTIC SYSTEM OR IF AN ALTERNATIVE SYSTEM IS REQUIRED.
ALL BUILDABLE AREAS SHOWN HAVE SLOPES LESS THAN 15% AND THERE ARE NO NATURAL DRAINAGE WAYS OTHER THAN THOSE SHOWN AS DRAINAGE EASEMENTS. NO BUILDING IS ALLOWED WITHIN 25' OF THE BANK OF A DRAINAGE EASEMENT.
NO ARCHAEOLOGICAL NON-DISTURBANCE EASEMENTS HAVE BEEN CREATED WITHIN THE 5 ACRE BUILDING SITES DEFINED BY TAMARCH CULTURAL MANAGEMENT SERVICES, CONSULTING ARCHAEOLOGIST, AND DESCRIBED IN REPORT No. NMCR ACTIVITY 82218. (SEE PLAT BOOK 534, PAGE 022)
THE ROADWAY ON LOT 2 MAY NOT BE USED FOR COMMON VEHICULAR ACCESS TO OTHER LOTS SHOWN ON THIS PLAT, AND MAY ONLY BE USED BY THE OWNER OF LOT 2.
WATER USE/WITHDRAWAL ON THESE TRACTS IS RESTRICTED BY COVENANTS FILED IN THE OFFICE OF THE COUNTY CLERK AND RECORDED AS INSTRUMENT No. 143553.
THESE TRACTS ARE SUBJECT TO THE REQUIREMENTS OF THE FIRE MARSHAL AFFIDAVIT FILED IN THE OFFICE OF THE COUNTY CLERK AS INSTRUMENT No. 143553.

SPECIAL BUILDING PERMIT CONDITIONS
BUILDING ACTIVITY IS LIMITED TO "BUILDING SITES" SHOWN HEREON. PRIOR TO FURTHER BUILDING OR DEVELOPMENT ON LOTS OUTSIDE OF SAID "BUILDING SITES", AN ARCHAEOLOGICAL SURVEY SHALL BE REQUIRED IN ACCORDANCE WITH THE SANTA FE COUNTY LAND DEVELOPMENT CODE.
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.

"TITLE AND INDEXING INFORMATION FOR THE COUNTY CLERK"
LOT LINE ADJUSTMENT PLAT PREPARED FOR
PADRE SPRINGS, LLC. &
FREEDANCE, LLC.
BETWEEN LOTS 1, 2, AND 5
RECORDED IN BOOK 560, PAGE 001
PECOS PUEBLO GRANT EXC 331, PC 367
SECTION 12, T11E, R11E, NMPM, N.M.
MEXICO.
EXHIBIT 2
1-NEC-13
DAWSON SURVEYS INC.
PROFESSIONAL LAND SURVEYORS
2502 B CAMINO ENTRADA
SANTA FE, N.M. 87505
FILE#7564 DATE: 4-18-06



SURVEYOR'S CERTIFICATE
I HEREBY CERTIFY THAT THIS PLAT IS A TRUE REPRESENTATION OF A SURVEY COMPLETED UNDER MY PERSONAL SUPERVISION ON THE 6th DAY OF FEBRUARY, 2004, TO THE BEST OF MY KNOWLEDGE, THE SURVEY AND PLAT ARE CORRECT, TRUE AND MEET THE MINIMUM STANDARDS FOR LAND SURVEYS IN NEW MEXICO.

GARY E. DANSON, N.M.P.L.S. 7014

LEGEND
BEARINGS ARE DERIVED FROM GPS OBSERVATIONS, REFERRED TO THE NAD 83 STATE PLANE, CENTRAL ZONE MERIDIAN. DISTANCES ARE GROUND. GROUND TO GRID SCALE FACTOR = .99584

- DENOTES BRASS CAP, OR AS SHOWN, FOUND
- DENOTES REBAR, OR AS SHOWN, FOUND
- DENOTES REBAR, OR AS SHOWN, SET
- DENOTES CALCULATED POINT NOT SET
- DENOTES PRIVATE ACCESS AND PUBLIC UTILITY EASEMENT
- DENOTES CENTERLINE
- DENOTES CENTERLINE OF NATURAL DRAINAGE WAY EASEMENT
- DENOTES BUILDING SITE, SLOPES LESS THAN 15%

BOUNDARY DATA IN PARENTHESIS IS FROM PRIOR PLATS OR DOCUMENTS

— DENOTES BOUNDARY OF LANDS DEALT WITH BY THIS PLAT. INFORMATION OUTSIDE OF THIS BOUNDARY IS BACKGROUND INFORMATION ONLY, NOT VERIFIED FOR ACCURACY AND IS NOT PART OF THIS PLAT.

THIS PLAT SUBJECT TO ANY RESTRICTIONS, COVENANTS AND EASEMENTS OF RECORD.

WATER AND FIRE PROTECTION NOTE
The 10,000 gallon system and draft hydrant at each residence shall be in place, tested, approved and operable prior to the start of any building construction. Plans and locations for said system shall be submitted prior to the installation for approval by the Santa Fe County Fire Department and shall meet all minimum requirements. The water storage system shall incorporate the use of a tank water level monitoring system. The water level shall be maintained by an external water source or well. Residential fire protection sprinkler systems are required for all residences.

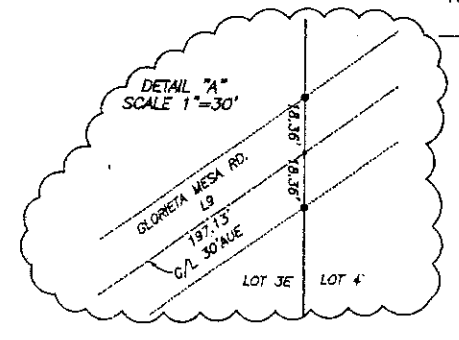
Water produced from well UP-3436 will be treated at the wellhead to within Environmental Protection Agency (EPA) National Drinking Water Standards. The water treatment system will be installed by the seller prior to any water delivery to the five (5) lots served by said well. The seller will initially perform system maintenance. Upon private ownership of all five (5) lots, responsibility for maintenance of the entire water system, including the water treatment system, will revert to the shared well association defined in the well sharing agreement for UP-3436.

Water use on each lot, from well UP-3436, will be limited to 0.25 acre-feet per annum (afa) by Santa Fe County Land Use Department. Upon submittal of additional hydrologic information, the water use may be increased to a maximum of 0.80 afa per lot, or a total of 3.0 afa from well UP-3436.

LINE	BEARING	DIST
L1	S86°15'25"E	118.13'
L2	S52°46'25"E	133.50'
L3	S86°25'29"E	57.81'
L4	S86°25'29"E	146.89'
L5	N70°01'21"E	199.07'
L6	N32°34'55"E	181.61'
L7	N18°40'55"E	185.05'
L8	N43°23'45"E	240.08'
L9	N54°47'46"E	197.13'

NOTE:
BUILDING PERMITS FOR LOTS 3A THROUGH 3E SHALL NOT BE ISSUED UNTIL COUNTY ROAD 63 MEETS SANTA FE COUNTY ROAD STANDARDS, THE APPROVAL OF THE SANTA FE COUNTY PUBLIC WORKS DEPARTMENT AND THE U.S. FOREST SERVICE. OFFSITE ROAD IMPROVEMENTS SHALL INCLUDE THE IMPROVEMENT OF ROAD GRADES OF COUNTY ROAD 63, WHICH ACCORDING TO SANTA FE COUNTY CODE, MUST BE 11% OR LESS TO ALLOW FOR THE SATISFACTORY INGRESS AND EGRESS OF EMERGENCY VEHICLES AND 911 SERVICES.

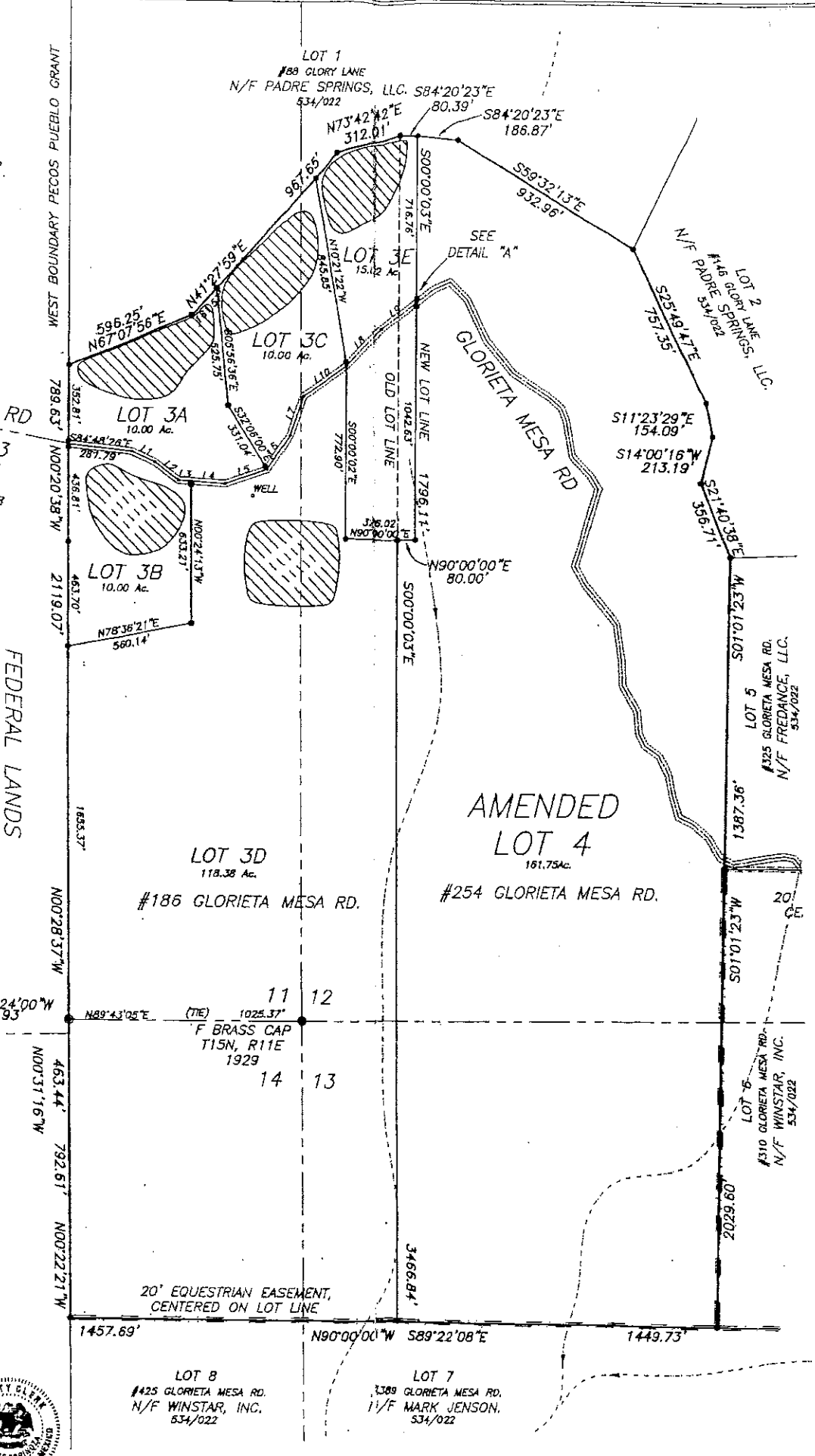
LOT#	ADDRESS
3A	#175 GLORIETA MESA ROAD
3B	#174 GLORIETA MESA ROAD
3C	#199 GLORIETA MESA ROAD
3D	#186 GLORIETA MESA ROAD
3E	#209 GLORIETA MESA ROAD



COUNTY OF SANTA FE 137919255
STATE OF NEW MEXICO
I hereby certify that this instrument was filed for record on the 10th day of May, 2004, at 1:30 o'clock PM, and was duly recorded in book 527, page(s) 615 of the records of Santa Fe County.

Witness my Hand and Seal of office
VALERIE ESPINOZA
County Clerk, Santa Fe County, N.M.

Deputy



DEDICATION AND AFFIDAVIT
KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED OWNER(S) HAVE CAUSED TO BE DIVIDED THOSE LANDS SHOWN HEREON. THE SAID DIVISION AND LOT LINE ADJUSTMENT IS MADE WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF SAID OWNER(S). UTILITY COMPANIES ARE GRANTED EASEMENTS AS SHOWN AND TO EXISTING UTILITIES NOT SHOWN. OTHER EASEMENTS ARE GRANTED AS SHOWN. THIS DIVISION AND LOT LINE ADJUSTMENT CONTAINS 328 AC., MORE OR LESS. THERE IS NO ROAD DEDICATION.

THIS DIVISION LIES WITHIN THE PLANNING AND PLATTING JURISDICTION OF THE COUNTY OF SANTA FE, N.M.

OWNER LOT 3: FREDANCE, LLC.

BY: BOB SHERWIN, MANAGING DIRECTOR
STATE OF NEW MEXICO
COUNTY OF SANTA FE
THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON 3-28-05 BY BOB SHERWIN, MANAGING DIRECTOR OF FREDANCE, LLC.
NOTARY PUBLIC MY COMMISSION EXPIRES: 8-17-06

OWNER LOT 4: WILLIAM AND TONI SCHACKEL
STATE OF NEW MEXICO
COUNTY OF SANTA FE
THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON 3-29-05 BY WILLIAM AND TONI SCHACKEL
NOTARY PUBLIC MY COMMISSION EXPIRES: 8-17-06

SANTA FE COUNTY APPROVAL NOTES AND CONDITIONS

APPROVED BY:
LAND USE ADMINISTRATOR DATE 3/10/05 RURAL ADDRESSING DATE 4-18-05 FIRE DEPARTMENT DATE 4-26-05

COUNTY DEVELOPMENT PERMIT NO. 04-3103 & 04-3105

MAINTENANCE OF ACCESS ROADS AND UTILITY EASEMENTS IS THE RESPONSIBILITY OF THE LAND OWNER/USER UNLESS CURRENTLY MAINTAINED BY THE SANTA FE COUNTY PUBLIC WORKS DEPARTMENT OR STATE HIGHWAY DEPARTMENT.

THE APPROVAL OF THIS PLAT DOES NOT CONSTITUTE THE APPROVAL OF ANY FURTHER DEVELOPMENT, INCLUDING BUILDING PERMITS.

LANDS SHOWN HEREON LIE WITHIN ZONE "X" (LANDS OUTSIDE THE 500 YEAR FLOOD PLAIN) ACCORDING TO THE FEDERAL FLOOD INSURANCE RATE MAP PANEL No. 350069-02758, DATED 11/4/88.

EXISTING NATURAL DRAINAGEWAYS WILL NOT BE MODIFIED OR IMPEDED WITHOUT THE WRITTEN APPROVAL OF THE LAND USE ADMINISTRATOR OR COUNTY LAND USE ADMINISTRATOR OR COUNTY HYDROLOGIST. DEVELOPMENT SHALL NOT IMPEDE HISTORIC FLOW RATES OR PATTERNS TO OR FROM THESE LOTS.

SANTA FE COUNTY'S APPROVAL OF THIS SURVEY PLAT DOES NOT INCLUDE THE CONSTRUCTION OF THE PRIVATE EASEMENT(S) OR ROAD(S) AS SHOWN. PRIOR TO THE CONSTRUCTION OF SAID PRIVATE EASEMENT(S) OR ROAD(S), IT IS REQUIRED THAT AN ADDITIONAL DEVELOPMENT PERMIT BE APPLIED FOR AND THEN APPROVED BY THE SANTA FE COUNTY LAND USE ADMINISTRATOR.

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.

THESE LOTS ARE SUBJECT TO SANTA FE COUNTY FIRE AND RESCUE IMPACT FEES AT THE TIME OF APPLICATION FOR BUILDING PERMIT.

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 ENVIRONMENTAL DEPARTMENT WHETHER THESE SOILS ARE SUITABLE FOR A CONVENTIONAL SEPTIC SYSTEM OR IF AN ALTERNATIVE SYSTEM IS REQUIRED.

ALL BUILDABLE AREAS SHOWN HAVE SLOPES LESS THAN 15% AND THERE ARE NO NATURAL DRAINAGEWAYS OTHER THAN THOSE SHOWN AS DRAINAGE EASEMENTS. NO BUILDING IS ALLOWED WITHIN 25' OF THE BANK OF A DRAINAGE EASEMENT.

NO ARCHAEOLOGICAL NON-DISTURBANCE EASEMENTS HAVE BEEN CREATED ON THESE LOTS AS DEFINED BY TAMARACH CULTURAL MANAGEMENT SERVICES, CONSULTING ARCHAEOLOGIST, AND DESCRIBED IN REPORT NO. NMCRSACTIVITY 82218. (SEE PLAT BOOK 534, PAGE 022)

DEVELOPMENT ON THESE LOTS IS SUBJECT TO THE SANTA FE COUNTY URBAN WILDLAND CODE.

WATER USE/WELL WITHDRAWAL ON THESE LOTS IS RESTRICTED BY COVENANTS FILED IN THE OFFICE OF THE COUNTY CLERK AND RECORDED AS DOCUMENT NO. 1379193

THE SUBMISSION DISCLOSURE STATEMENT REGARDING THESE LOTS IS FILED IN THE OFFICE OF THE COUNTY CLERK AND RECORDED AS DOCUMENT NO. 1379194

LOT SIZES WERE DERIVED FROM AN APPROVED HYDROLOGY TEST.

"TITLE AND INDEXING INFORMATION FOR COUNTY CLERK"

SUMMARY REVIEW SUBDIVISION AND LOT LINE ADJUSTMENT PLAT PREPARED FOR FREDANCE, LLC. & WILLIAM & TONI SCHACKEL, OF LOT 3, RECORDED IN BOOK 534, PAGE 022 & LOT 4, RECORDED IN BOOK 560, PAGE 001 SECTIONS 11, 12, 13 AND 14, T15N, R11E, NMPM, WITHIN THE PECOS PUEBLO GRANT, EXC. 331, PG. 367. #186 & 254 GLORIETA MESA ROAD SANTA FE COUNTY NEW MEXICO.

SCALE 1"=300' FEET

DATE: 3-10-05

PUBLIC NOTICE: SANTA FE CO.

THE SANTA FE COUNTY LAND USE ADMINISTRATOR HAS NOT REVIEWED THIS PLAT OF SURVEY BEFORE ITS FILING IN THE OFFICE OF THE COUNTY CLERK. THIS PLAT IS NOT BEING FILED FOR THE PURPOSE OF CREATING A SUBDIVISION OR NEW LOTS, ALTERING THE BOUNDARIES OF ANY EXISTING LOTS OR FOR THE PURPOSE OF "DEVELOPMENT" AS DEFINED IN THE SANTA FE COUNTY LAND DEVELOPMENT CODE, EXTRAJURISDICTIONAL ZONING ORDINANCE OR EXTRAJURISDICTIONAL SUBDIVISION REGULATIONS. THIS STATEMENT DOES NOT IN ANY WAY REPRESENT OFFICIAL COUNTY APPROVAL OF THIS PLAT.

PLAT SHOWING AN EASEMENT SURVEY LYING WITHIN PORTIONS OF THE SE 1/4 OF SECTION 10, THE SW 1/4 OF SECTION 11, THE SE 1/4 OF SECTION 11, THE NE 1/4 OF SECTION 11, AND GOVERNMENT LOT 2 OF SECTION 11 TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE NEW MEXICO PRINCIPAL MERIDIAN

LOCATED ON GLORIETA MESA
COUNTY OF SANTA FE
STATE OF NEW MEXICO
OLD FOREST TRAIL ROAD, RIGHT-OF-WAY EASEMENT GRANTED BY THE UNITED STATES OF AMERICA TO WINSTAR, INC.

EXHIBIT "A"

LEGEND

- UNITED STATES GENERAL LAND OFFICE BRASS CAP MONUMENT; FOUND as noted
- SURVEY MONUMENT; Set this survey; 1/2 inch rubber YASER 8123 aluminum cap Witness Center
- FENCE LINE
- EXISTING DIRT ROAD (SHADED AREA)

625026

GOVT. LOT 2

END PROJECT WITNESS CORNER "A" (ON WEST BOUNDARY PECOS PUEBLO GRANT)

END PROJECT WITNESS CORNER "A" (ON WEST BOUNDARY PECOS PUEBLO GRANT)

GOVT. LOT 6

GOVT. LOT 6

END PROJECT WITNESS CORNER "A" (ON WEST BOUNDARY PECOS PUEBLO GRANT)

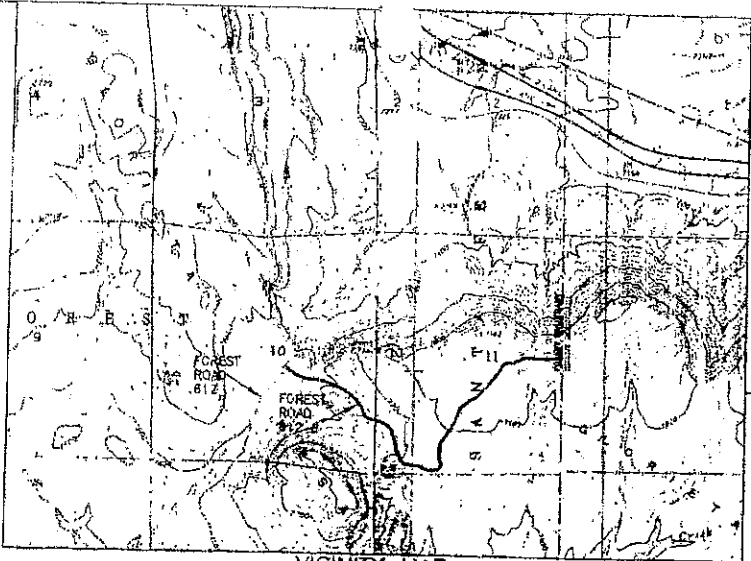
END PROJECT WITNESS CORNER "A" (ON WEST BOUNDARY PECOS PUEBLO GRANT)

END PROJECT WITNESS CORNER "A" (ON WEST BOUNDARY PECOS PUEBLO GRANT)

END PROJECT WITNESS CORNER "A" (ON WEST BOUNDARY PECOS PUEBLO GRANT)

END PROJECT WITNESS CORNER "A" (ON WEST BOUNDARY PECOS PUEBLO GRANT)

END PROJECT WITNESS CORNER "A" (ON WEST BOUNDARY PECOS PUEBLO GRANT)



VICINITY MAP
NOT TO SCALE

SANTA FE NATIONAL FOREST

CENTERLINE OF 30' WIDE ROADWAY ACCESS EASEMENT

SANTA FE NATIONAL FOREST

LINE	LENGTH	BEARING
1	310.35	S38°30'07"E
2	248.67	S74°49'06"E
3	115.87	S88°38'24"E
4	38.15	S75°39'36"E
5	125.82	S89°15'20"E
6	126.10	S77°50'00"E
7	59.08	S58°40'08"E
8	51.81	S48°11'49"E
9	41.28	S55°54'12"E
10	76.29	S89°54'44"E
11	68.79	S76°21'22"E
12	120.34	S23°46'53"E
13	311.42	S70°40'59"E
14	193.80	S78°09'02"E
15	88.80	S70°58'01"E
16	41.04	S72°52'30"E
17	25.74	S69°11'02"E
18	64.45	S21°30'01"E
19	138.42	S24°04'14"E
20	266.14	S68°12'49"E
21	186.75	N68°54'26"E
22	50.41	N17°28'01"W
23	55.84	N72°40'42"W
24	100.08	N78°27'56"W
25	56.36	N17°05'18"W
26	10.41	N72°14'08"E
27	205.78	N39°00'40"E
28	44.62	N49°56'34"E
29	64.61	N28°11'09"E
30	308.77	N72°46'43"E
31	473.37	N67°27'54"E
32	154.13	N70°41'36"E
33	183.00	N74°43'53"E
34	394.10	N16°08'58"E
35	150.49	N74°36'12"E
36	72.80	N46°26'30"E
37	91.00	S83°22'39"E
38	181.90	N42°07'24"E
39	186.71	S80°18'19"E

SCALE 1"=200' FEET

CURVE	CHORD	DELTA	CH. BEARS	CH. LENGTH
C1	43.70	50.00	S87°12'06"E	39.93
C2	44.61	35.00	S81°43'45"E	41.52
C3	43.74	35.00	N81°05'31"W	41.80
C4	43.51	35.00	S81°22'28"E	51.41
C5	110.44	365.00	N87°32'51"W	113.02
C6	44.87	35.00	N57°00'33"W	51.02
C7	77.50	35.00	S45°45'01"E	73.34
C8	41.05	115.00	N57°00'37"W	51.93
C9	44.55	35.00	S70°31'31"E	31.47
C10	43.28	35.00	S67°54'58"E	41.17
C11	63.38	215.00	N68°09'03"W	61.77
C12	70.95	70.24	N17°28'07"W	67.97
C13	117.8	185.00	S67°05'23"E	100.07
C14	43.02	35.00	S67°13'56"E	41.78
C15	67.17	615.00	S71°25'01"E	61.07
C16	112.1	221.17	N68°25'58"W	113.13
C17	63.85	15.00	N67°40'28"W	61.15
C18	110.3	485.00	S17°55'13"E	105.62
C19	52.85	35.00	S51°01'46"E	51.48
C20	63.23	215.00	N49°21'32"W	61.97
C21	45.8	35.00	N67°56'34"E	41.52
C22	103.7	111.84	S67°32'27"E	117.47
C23	116.00	285.00	S51°24'38"E	163.70
C24	336.11	445.17	S67°07'41"E	300.16
C25	106.44	235.00	N60°36'39"W	163.07
C26	64.42	35.00	N67°43'43"E	61.58
C27	45.40	35.00	N17°45'42"E	41.29
C28	32.36	185.00	N27°54'52"W	31.30
C29	47.70	36.77	S67°36'22"E	48.31
C30	46.8	35.00	N67°41'20"E	41.22
C31	37.51	35.00	S67°25'37"E	37.24
C32	23.75	35.00	S25°37'52"W	31.39
C33	35.46	185.00	S4°30'32"W	31.35
C34	70.36	35.00	N37°02'21"E	69.88
C35	105.3	485.00	N27°56'56"E	105.10
C36	110.50	210.00	S27°37'18"W	108.69
C37	62.75	210.00	N47°41'18"E	50.59
C38	61.28	210.00	S45°26'18"W	61.07
C39	64.8	210.00	N47°41'18"E	64.81
C40	34.94	35.00	S59°20'35"E	31.23
C41	98.06	115.00	N61°31'07"E	97.24
C42	247.71	731.19	S61°32'08"W	252.64
C43	48.2	35.00	S61°37'58"E	47.57
C44	33.0	35.00	N69°03'27"E	23.97

REFERENCE DOCUMENTS

- A PLAT OF A DEPENDENT RESURVEY, TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE NEW MEXICO PRINCIPAL MERIDIAN, AS ACCEPTED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE ON MARCH 4, 1940.
- SUPPLEMENTAL PLAT SHOWING PRIVATE CLAIMS IN SECTIONS 1, 2, 6, 7, 11, 12, 13, 14, 17, 18, 19, 20, 23, 24 WITHIN THE PECOS PUEBLO GRANT, TOWNSHIP 15 NORTH, RANGES 11 AND 12 EAST OF THE NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO, AS SAID PLAT WAS ACCEPTED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE ON NOVEMBER 13, 1934.

SURVEYOR'S CERTIFICATE

I, SCOTT YAGER, DO HEREBY CERTIFY THAT THIS EASEMENT PLAT AND THE FIELD SURVEY ON WHICH IT WAS BASED WERE COMPLETED BY ME OR UNDER MY DIRECTION, ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND MEET THE MINIMUM STANDARDS FOR AN EASEMENT SURVEY IN THE STATE OF NEW MEXICO, AS ADOPTED 2/2/94.

SCOTT YAGER 6/14/02
DATE

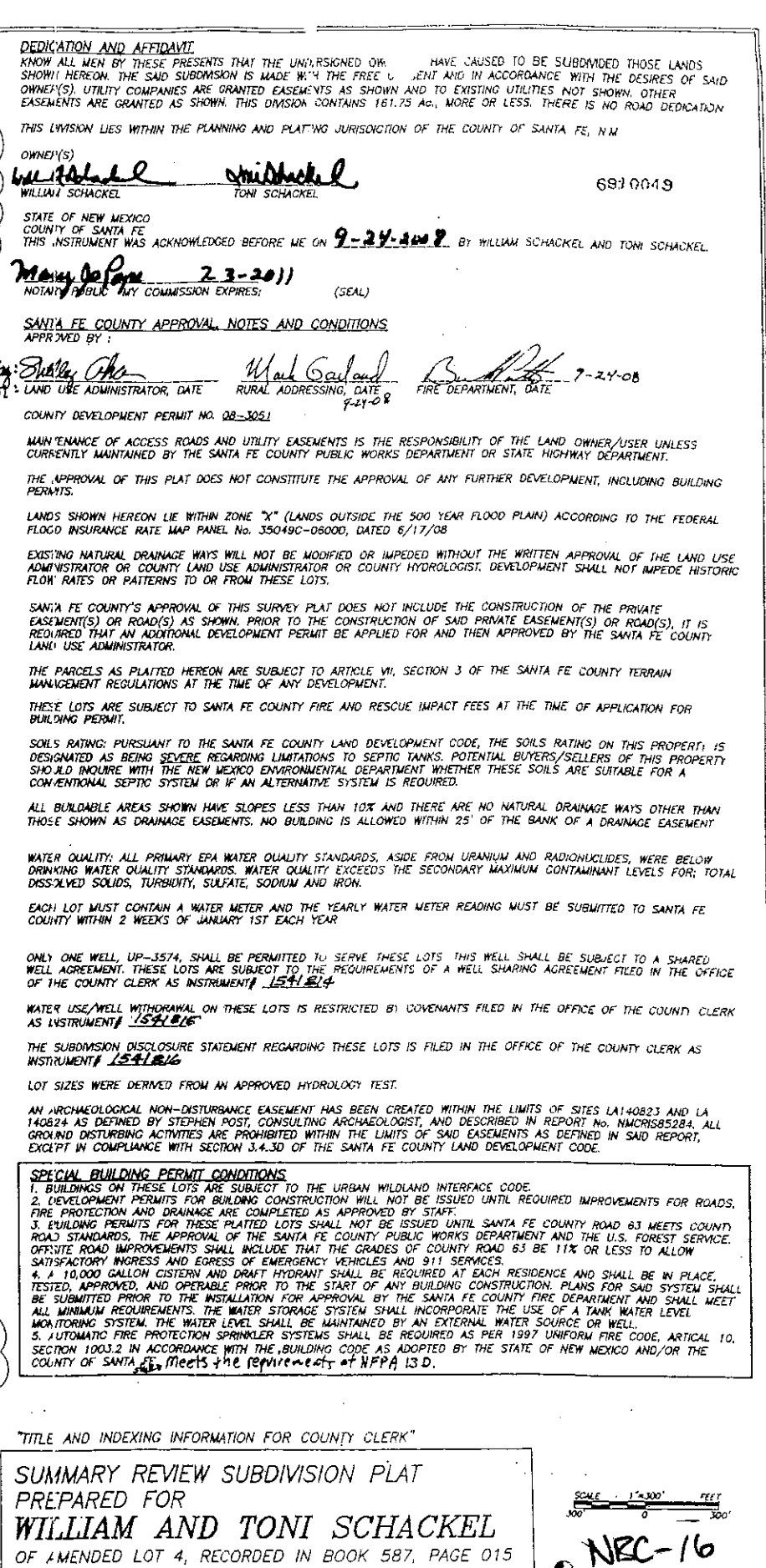
SURVEYOR'S NOTES

- BEARINGS SHOWN HEREON WERE BASED ON ASTRONOMIC OBSERVATIONS.
- THE PURPOSE OF THIS SURVEY IS TO LOCATE THE CENTERLINE OF AN EXISTING DIRT ROAD FOR THE PURPOSE OF DESCRIBING AND IDENTIFYING ITS LOCATION, BEGINNING AT A POINT IDENTIFIED AS "BEGINNING OF SURVEY" ON THIS PLAT AT THE INTERSECTION OF THE SANTA FE NATIONAL FOREST ROAD NO. 512 TO A POINT IDENTIFIED AS "END OF SURVEY" ON THIS PLAT, BEING A POINT ON A LINE SAID LINE BEING THE EAST BOUNDARY OF THE SANTA FE NATIONAL FOREST, WHICH IS COMMON WITH THE WEST BOUNDARY OF THE PECOS PUEBLO GRANT.
- THIS PLAT REPRESENTS AN EASEMENT SURVEY. IT DOES NOT REPRESENT A BOUNDARY SURVEY.
- DATES OF FIELD WORK APRIL 9 - 11, 2002
- AREA OF EASEMENT: 6.24 Acres +/-

1262-076
COUNTY OF SANTA FE
STATE OF NEW MEXICO
I, Frank A. Williams, County Clerk, do hereby certify that this plat was filed for record on the 15th day of June, 2002, at 10:03 AM, and was duly recorded in Book 553, Page 241 of the records of Santa Fe County.

INDEXING INFORMATION FOR COUNTY CLERK A PLAT OF EASEMENT SURVEY

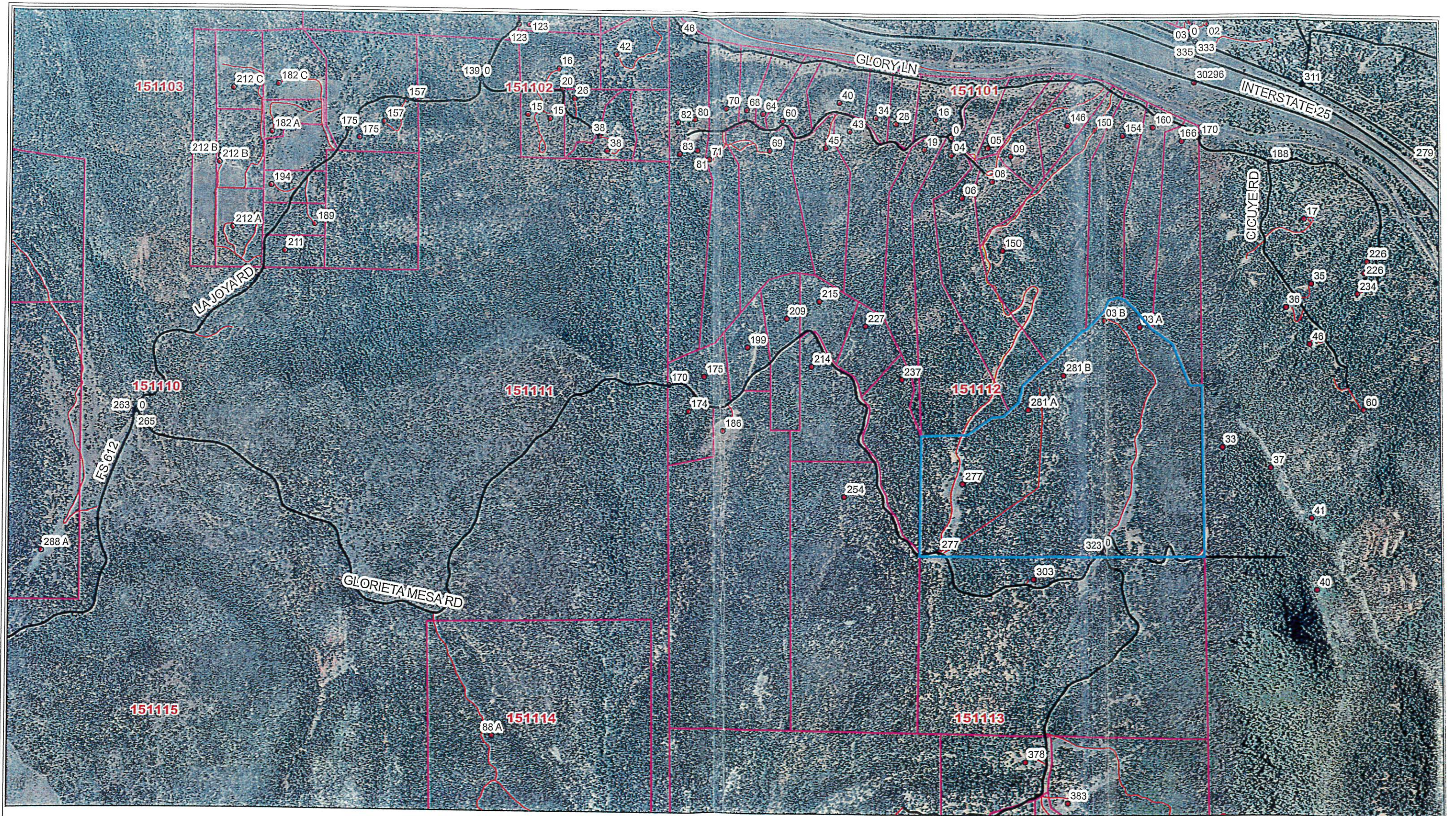
SECTIONS	10 & 11
TOWNSHIP	15N
RANGE	11E
WINSTAR, INC.	
WITHIN	
SECTIONS 10 AND 11	
T. 15 N., R. 11 E.,	
N.M.P.M.	
GLORIETA MESA	
SANTA FE COUNTY, NEW MEXICO	
DATE: 05/14/02	
SCALE: 1"=200'	
1 of 1	



SCALE 1"=300' FEET
300' 0 300'

NRC-16

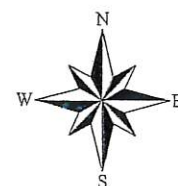
DAWSON SURVEYS INC.
PROFESSIONAL LAND SURVEYORS
2502 CAMINO ENTRADA
SANTA FE, N.M. 505-471-
FILE# 8253 DATE: 9/22



Legend

- ROADS
- DRIVEWAYS
- Parcels

1:12,500
1 inch represents 1,041.666667 feet
0 285 570 1,140 1,710 2,280 Feet



2008 Orthophotography
2 FOOT CONTOURS

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



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. Pavement design documentation shall be prepared and signed by, or shall be under the supervision of, a professional engineer.

7.11.3.4. Rules of Intersection. Section 7.11 fails to adequately address



LEGAL #83314

CASE #V 17-5090
Fredance, LLC

NOTICE OF PUBLIC
HEARING

Notice is hereby that a public hearing will be held to consider a request by Fredance LLC, Applicant, Sommer, Karnes and Associates (Joseph Karnes), Agent, for a Variance to the requirements set forth in the Sustainable Land Development Code (SDLC) Table 7-13 (Rural Road Classification and Design Standards) (SDA-2 and SDA-3) to allow a road with a 30' ft. Right-of-Way rather than the required 50' ft. Right-of-Way for local roads. The property is located within the Rural Fringe Zoning District, at 325 Glorieta Mesa Road, within Section 12, Township 15 North, Range 11 East (Commission District 4).

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 26th day of October, 2017, at 3 p.m. on a petition to the Santa Fe County Hearing Officer, and on December 21, 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 Commission taking 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 October 11, 2017.

Account Number

1724

Ad Order Number

0000210535

SOMMER KARNES AND ASSOCIATES



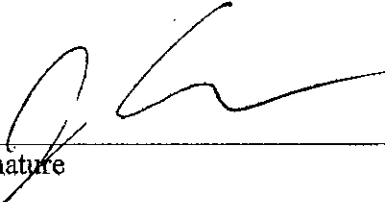
NBC-19

CERTIFICATION OF POSTING

I hereby certify that the public notice posting regarding Sustainable Land Development Code.

Case # V17-5090 was posted for 15 days on the property beginning

The 10TH day of October
2017. **

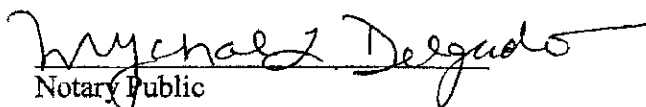

Signature

*Photo of posting must be provided with certification

****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.

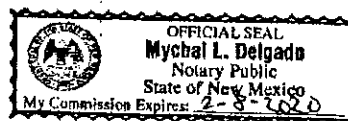
STATE OF NEW MEXICO }
COUNTY OF SANTA FE }

The foregoing instrument was acknowledged before me this 11TH day of
October, 2017, By Joseph Karcus.


Notary Public

My Commission Expires:

2-8-2020



NBC-20

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) TABLE 7-13 RURAL ROAD CLASSIFICATION & DESIGN STANDARDS, SDA-2, SDA-3, TO ALLOW A ROAD WITH A 30' FT. RIGHT-OF-WAY RATHER THAN THE REQUIRED 50' FT. RIGHT-OF-WAY FOR LOCAL ROADS. 12

Name of Applicant FREDANDE, LLC

Address of Request 4325 GLOBIETA MESA RD.

Legal Description: Section 12 Township 15 North
Range 11 East NMPM Santa Fe County, New Mexico.

A PUBLIC HEARING

will be held made at the

Old Santa Fe County Courthouse, corner of Palace and Grant Avenues, Santa Fe, New Mexico on/after the 26th day of October, 2017, at 3:00 pm before the SFC HEARING OFFICER

& ON December 21, 2017 @ 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 # UT-5090

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) TABLE 7-13 RURAL ROAD CLASSIFICATION & DESIGN STANDARDS SDA-2 & SDA-3 TO ALLOW A ROAD WITH A 30' FT. RIGHT-OF-WAY EARLIER THAN THE REQUIRED 50' FT. RIGHT-OF-WAY FOR LOCAL ROADS.

Name of Applicant FREDANCK, LLC

Address of Request # 325 GLOVERNA MESA RD.

Legal Description: Section 12 Township 15 North

Range 11 East NMPM Santa Fe County, New Mexico.

A PUEBLO HERONS

will be held/made at the

Old Santa Fe County Courthouse, corner of Palace and Grant Avenues, Santa Fe, New Mexico on/after the 26 day of October, 2017, at 3:00 pm before the SFC HERONS or its

DA December 21, 2017 @ 4:00 pm Recess 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 # V17-3690

William and Toni Shackel
33 Bluestem Drive
Santa Fe, NM 87502

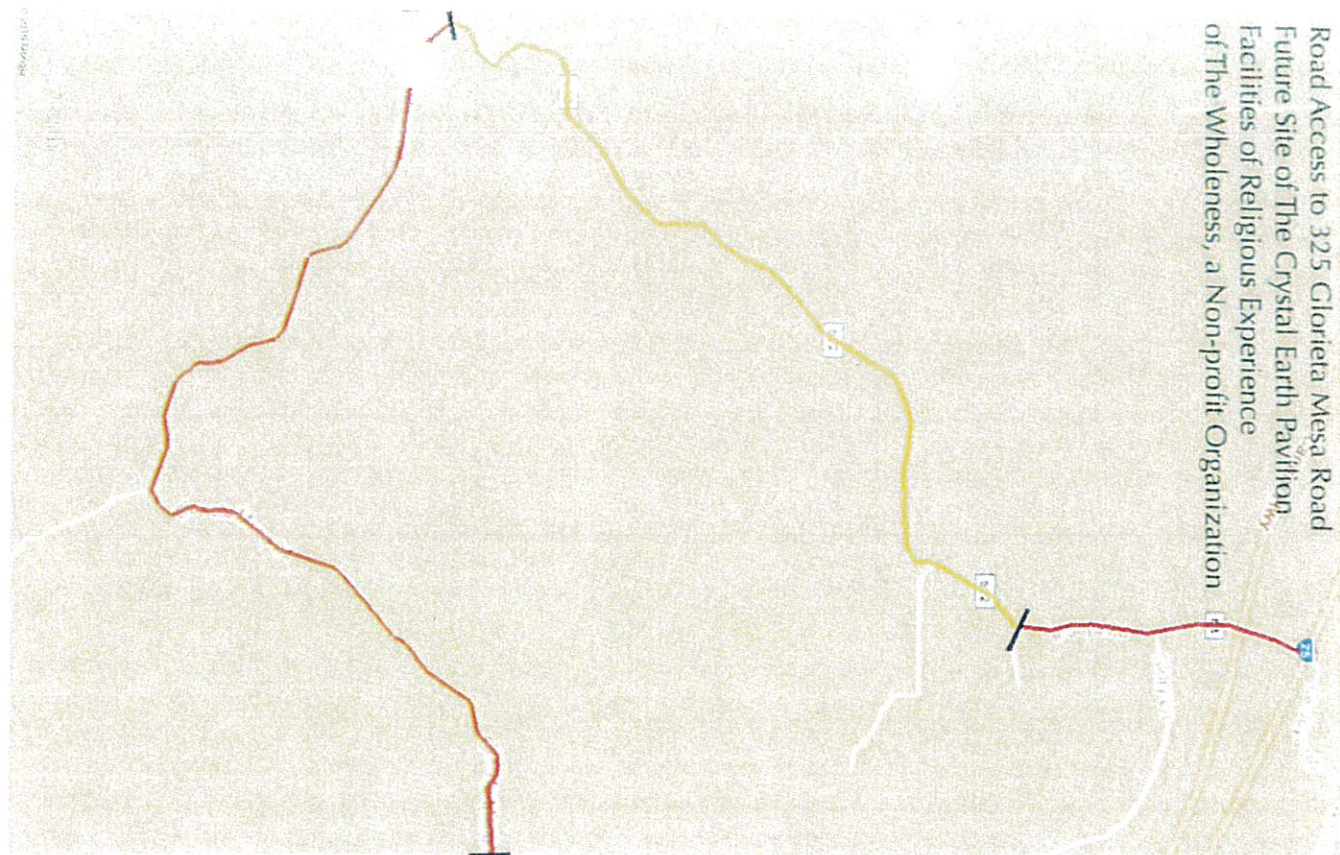
Brad and Kathleen Holian
303 Glorieta Mesa Road
Glorieta, NM 87535

Padre Springs LLC
218 Camino La Tierra
Santa Fe, NM 87506

Keith and Denise Shauder
PO Box 590625
Houston, TX 77259

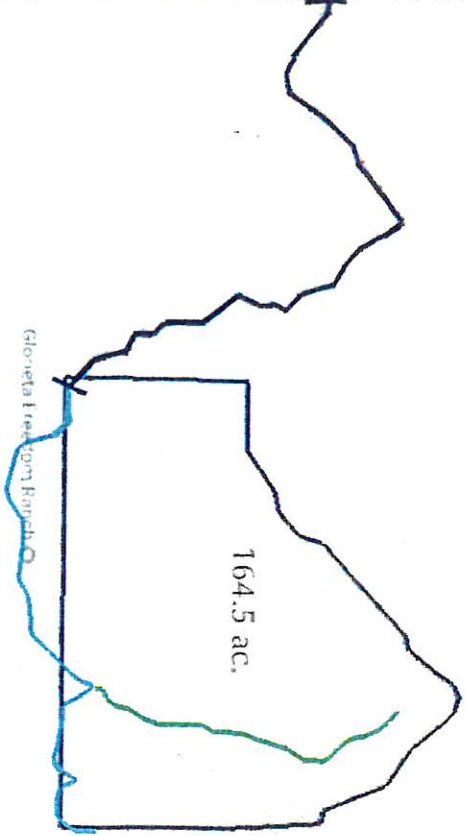
NBC-23

Road Access to 325 Clorieta Mesa Road
 Future Site of The Crystal Earth Pavilion
 Facilities of Religious Experience
 of The Wholeness, a Non-profit Organization



Legend

- La Joya Road (County Road - Public)
- Forest Road 612 (US Forest Service - Public)
- Forest Road 612B/ Clorieta Mesa Road (US Forest Service - Private)
- Clorieta Mesa Road (Private - 30' Easement)
- Clorieta Mesa Road (Private - 50' Easement)
- Property Service Road
- ☐ Subject Property 164.5 ac.



NBC-24

Cerro de
Escobas



Miguel Romero

From: Joseph M. Karnes <josephk@sommerkarnes.com>
Sent: Wednesday, June 07, 2017 11:23 AM
To: Miguel Romero
Subject: Fredance - Road Exhibit
Attachments: Fredance Road Exhibit.pdf

Hello Miguel

Please see the attached exhibit, which can be made part of the application.

The approximate distances are:

La Joya Road – 0.4 mi

FR 612 – Public – 1.4 mi

FR 612B Forest Service private – 2.1 mi

Glorieta Mesa Road – Private 30' easement - 1.8 mi

Glorieta message Road – Private – 50' easement – 0.7 mi

The Gary Frank letter is out for execution.

If you have any other questions, please let me know.

Thank you,

Joseph Karnes
Sommer Karnes & Associates, LLP
PO Box 2476
Santa Fe, NM 87504-2476
(505) 989-3800
joseph@sommerkarnes.com

NOTE: If you are a client, do not forward this email to anyone because doing so may cause you to waive the attorney-client privilege or other protected communications.

DISCLAIMER: DO NOT read, copy or disseminate this communication unless you are the intended addressee. This e-mail communication contains confidential and/or privileged information intended only for the addressee. If you have received this communication in error, please call this office immediately at (505) 989-3800 and ask to speak to the sender of the communication. Also, please e-mail a response to the sender and notify him/her that you have received the communication in error. Thank you

NBC-25

Sustainable Land Development Code
Hearing Officer Meeting
October 26, 2017
CASE NO. V17-5090
Fredance, LLC, Applicant

RECOMMENDED DECISION AND ORDER

THIS MATTER came before the Sustainable Land Development Code Hearing Officer for hearing on October 26, 2017, on the application of Fredance, LLC, (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 to allow a road with a 30 ft. Right-of-Way rather than the required 50 ft. Right-of-Way for local roads. The property is located within the Rural Fringe Zoning District at 325 Glorieta Mesa Road (Property), within Section 12, Township 15 North, Range 11 East (Commission District 4). The Hearing Officer, having reviewed the application, staff reports, and having conducted a public hearing on the request, finds that the application is not well-taken and should not be granted, and makes the following findings of fact and conclusions of law:

1. On April 21, 2017, the Applicant submitted its application for a variance of Chapter 7, Table 7-13: Rural Road Classification and Design Standards to allow a road with a 30 ft. Right-of-Way rather than the required 50 ft. Right-of-Way for local roads.
2. This Application was scheduled to go before the Santa Fe County Hearing Officer on June 22, 2017. However, this case had to be tabled three times due to legal access/easement issues with the United States Forest Service.
3. As required by the SLDC, the Applicant presented the application to the Technical Advisory Committee (TAC) on February 20, 2017, at the regular scheduled monthly



NBC-26

SEC. CLERK RECORDED 11/28/2017

meeting, which satisfied the requirements set forth in Chapter 4, Section 4.4.4.3 Pre-application TAC Meeting and Table 4-1.

4. 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 October 11, 2017. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on October 11, 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.

5. The Applicant states that the Applicant along with their development partner, will be proposing a non-residential religious use on a portion of the subject property. A religious use is a permitted use per the SLDC. However, any non-residential use requires a minimum 50 ft. ROW for local roads up to the point where they access a Public Road. To facilitate future development of the subject property, a variance is requested to the road easement standard for the existing U.S.F.S. Road Easement (2.1 miles) and the Private Easements (1.8 miles). The U.S.F.S. Easement along with the Private Easements and the existing road within those easements otherwise comply with the SLDC requirements, except perhaps for some areas where road maintenance is needed to maintain an effective road width of 20 ft.

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

A. Chapter 8, Section 8.6.3. Rural Fringe (RUR-F) Purpose:

The purpose of the Rural Fringe (RUR-F) district is to designate areas suitable for a combination of estate-type residential development, agriculture uses and other compatible uses. The RUR-F designation provides an intermediate step in development density between typical open space and agricultural/ranching lands

and primarily residential (low density) parcels. This zone also serves to protect agricultural and environmental areas that are inappropriate for more intense development due to their sensitivity. The RUR-F zone accommodates primarily large lot residential, ecotourism, equestrian uses and renewable resource-based activities, seeking a balance between conservation, environmental protection and reasonable opportunity for development. 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 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.

C. 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;
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.

D. 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 as follows:

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

i. The Applicant stated that the existing road within the U.S.F.S. Easement and the Private Easement is adequate and the easements themselves were adequate to issue several development permits prior to adoption of the SLDC, but the 30-foot wide U.S.F.S. Easement and Private Easement do not comply with the current SLDC width requirement of 50 ft. Given the rural nature of the area and the relatively limited number of properties served by the U.S.F.S. Easement and the Private Easement, and the low-intensity zoning adopted by the SLDC, it is not likely the existing road within the U.S.F.S. Easement or the Private Easement will ever need to be expanded beyond its existing 2-lane minimum 20' wide condition. Therefore, using the existing U.S.F.S. Easement and road for their intended purpose furthers the public interest.

ii. Staff stated that the SLDC provides that a non-residential use requires a minimum 50 ft. ROW for local roads up to the point where they access a Public Road.

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 it could be impossible to achieve grant of a new U.S.F.S. easement. The County Code revision may therefore result in the inability to develop the subject property, which is contrary to the intent of the U.S.F.S. when it granted the U.S.F.S.

2020 CHAIR RECORDS 1/28/2017

Easement and the private owners in granting the Private Easement.

ii. Staff stated that SLDC provides that the minimum required ROW for non-residential development is 50 ft.

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

i. The Applicant stated that approval of the variance will facilitate economically productive use of the subject property in a manner consistent with the existing zoning. The Applicant also cited to the Religious Land Use and Institutionalized Persons Act of 2000, which prohibits governmental action that treats churches or other religious assemblies or institutions differently from non-religious institutions.

ii. Staff stated that the Rural Fringe zoning district allows religious facilities as a permitted use, subject to administrative approval, provided that the proposed use meets the design standards of the SLDC. Staff recommended that no development permit be issued unless and until a new easement agreement has been issued and recorded by the U.S. Forest Service. The original easement was considered revoked by the U.S. Forest Service and they are in the process of re-issuing the easement.

8. At the public hearing, other than the Applicant's representative, no one spoke in support or opposition to the application.

9. Based on the application and the evidence and testimony presented at the public hearing as described herein, the Hearing Officer finds there is not sufficient evidence of extraordinary and exceptional conditions of the Property that would result in undue hardship to the Applicant from a strict application of the Code and that the Applicant has not met the variance criteria of the SLDC.


10. The Applicant referenced the Religious Land Use and Institutionalized Persons

Act (RLUIPA) stating its prohibition on treating churches or other religious assemblies or institutions differently from non-religious institutions. The Applicant did not, however, provide any showing or evidence of the County treating a non-religious institution differently than this application.

11. RLUIPA forbids a government from "impos[ing] or implement[ing] a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a non-religious assembly or institution." 42 U.S.C. § 2000 cc (b)(1). To prove such a claim, the Applicant must establish "that [the County] treated the Applicant less favorably than a non-religious institutional application or applications. The Applicant, however, provided no cases or examples to the Hearing Officer of any unequal treatment of the application compared to other non-religious applications.

WHEREFORE, the Hearing Officer, based on the evidence presented, recommends disapproval of a variance of Chapter 7, Table 7-13: Rural Road Classification and Design Standards to allow a road with a 30 ft. Right-of-Way rather than the required 50 ft. Right-of-Way for local roads for non-residential uses.

Respectfully submitted,


Nancy R. Long
Hearing Officer

Date: 11-15-17

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

SLDC HEARING OFFICER 0
PAGES: 6

I Hereby Certify That This Instrument Was Filed for
Record On The 28TH Day Of November, 2017 at 08:55:15 AM
And Was Duly Recorded as Instrument # **1842284**
Of The Records Of Santa Fe County

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



ORALYNN GUERRERORTIZ: I'm Oralynn Guerrerortiz with Design Enginuity and our mailing address is PO Box 2758, Santa Fe, New Mexico.

I don't have any comments. I just wanted to say we agree with staff conditions and look forward to moving on through this process. I'll stand for any questions.

HEARING OFFICER LONG: Thank you. How old are the retaining walls?

MS. GUERRERORTIZ: I'm guessing they were built around 2008 or 2009.

HEARING OFFICER LONG: And you don't think there will be any issue with their structural integrity, do you?

MS. GUERRERORTIZ: I don't believe so but there is, I will have to examine that in a lot more detail. We would just probably end up taking a couple of layers and battering it back a little more because it is quite vertical. But it's really hard to see things currently very clearly so it's something I am going to have to examine in a little more detail before I certify it.

HEARING OFFICER LONG: All right. So if it requires any what I would say shoring up to be able to certify the integrity that is something that you feel can be done with the existing wall where it is.

MS. GUERRERORTIZ: Yes, certainly. I am sure the material is adequate. It is material that we have used in other projects and we built taller walls with that same material. It's just a question of really examining the footings and so on and making sure it was done correctly.

HEARING OFFICER LONG: Okay, thank you.

MS. GUERRERORTIZ: You're welcome.

HEARING OFFICER LONG: Is there anyone here this afternoon that would like to speak to this case? Do I have one person or more than one? It's just one, you may come forward, sir.

[Duly sworn, Fred Seibel, testified as follows]

FRED SEIBEL: My name is Fred Seibel, 1135 South Summit Drive. I am the president of the High Summit HOA and I want to let you know since last time we were here, the HOA has indeed annexed the lots that are on that plat into our subdivision and we find that the terrain considerations and the clearing that would be required to achieve 5 foot step walls would, in fact, be quite deleterious to the overall appearance of our subdivision so we support these variances.

HEARING OFFICER LONG: Thank you and thank you for coming this afternoon to let me know that. All right, is there anyone else? Will that conclude this case and look for my recommended decision. Thank you all.

C. Case #V17-5090 Fredance, LLC Variance, Fredance, LLC, Applicant, Sommer, Karnes and Associates (Joseph Karnes) 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 to allow a road with a 30 ft. Right-of-Way rather than the required 50 ft. Right-of-Way for local roads. The property is located within the Rural Fringe Zoning District at 325 Glorieta Mesa Road, within Section 12, Township 15 North, Range 11 East (Commission District 4).

Hearing Officer Long read the case caption as written above and invited staff to present the report.

MR. ROMERO: The Applicant, Fredance, LLC is the owner of the property at 325 Glorieta Mesa Road as indicated by warranty deed recorded in the records of the Santa Fe County Clerk on January 9, 2007, as Instrument number 1466386. The applicant is requesting a variance to allow a right-of-way easement to be less than the required 50 foot right-of-way easement for local roads providing access for non-residential uses.

The property at 325 Glorieta Mesa Road consists of 164.5 acres within the Rural Fringe Zoning District. The property is accessed off of State Road 50 onto La Joya Road, which is a County maintained road. La Joya Road turns into Forest Service Road. 612, which is a U.S. Forest Service maintained Public Road, which then turns onto U.S Forest Service Road 612B, which is identified as a Private Forest Service Road with a 30 foot right-of-way easement that is approximately 2.1 miles long and then turns into Glorieta Mesa Road, which is a private road that is approximately 1.8 mile long. Glorieta Mesa Road has a 30 foot easement.

The Applicant states that they along with their development partner will be proposing a non-residential religious use on a portion of the subject property. A religious use is a permitted use per the SLDC. However, any non-residential use requires a minimum 50 foot right-of-way for local roads up to the point where they access a public road. Therefore, the Applicant is requesting a variance to allow a 30 foot right-of-way prior to proceeding with their application for the religious use.

The Applicant requests a variance of Chapter 7, Table 7-13, Rural Road Classification and Design Standards to allow 2.1 miles of an existing Private U.S. Forest Service Road and a 1.8 mile portion of private easement to have a 30 foot right-of-way rather than the required 50 foot right-of way easement required in Ordinance No. 2016-9, the Sustainable Land Development Code, Table 7-13: Rural Road Classification and Design Standards for Local Roads. The design standards for Local Roads are two 10 foot driving lanes with a minimum right-of-way of 50 feet and a 9 percent max grade with 3 inches of base course.

The Applicant's agent states, to facilitate future development of the subject property, which is not proposed by this application, the Applicant requests a variance to the road easement standard for the existing U.S. Forest Service Road Easement and the private easements. The private U.S. Forest Service easement along with the private easements and the existing road within those easements otherwise comply with the SLDC requirements.

In 2003, the U.S. Forest Service granted easement to the Glorieta Mesa Ranch Road Maintenance Association, which is comprised of the owners of properties within the Pecos Pueblo Land Grant east of U.S. Forest Service Road 612B, including the Applicant. The 30 foot wide private easement was created in 2005 by a Summary Review Subdivision and Lot Line Adjustment Plat book 587, page 15. There is an existing road within the US Forest Service Easement and the Private Easement that provides access to lands and existing development within the association, including the subject property.

The Applicant's agent further states in conjunction with this application, County Growth Management Department and County Fire Department staff carried out a site visit and concluded that the existing road within the US Forest Service Easement and the Private Easement complies with applicable SLDC requirements, except perhaps for some areas where road maintenance is needed to maintain an effective road width of 20 feet.

This Application was scheduled to go before the Santa Fe County Hearing Officer on June 22, 2017. However, this case had to be tabled three times due to legal access/easement issues with the United States Forest Service. At this time the US Forest Service has confirmed that they will be working with the Applicants to amend the easement agreement in order to provide legal access.

Recommendation: The Applicant did provide responses to the variance review criteria. Staff recommends denial of a variance from Ordinance No. 2016-9 the Sustainable Land Development Code, Chapter 7, Table 7-13, Rural Road Classification and Design Standards. If the Hearing Officer recommends approval of the Applicant's variance request, staff recommends imposition of the following condition of approval. May I enter that into the record?

HEARING OFFICER LONG: Yes, you may.

MR. ROMERO: And that recommendation would be:

1. No development permits will be issued to the Applicant unless and until the new easement agreement has been issued and recorded by the United States Forest Service.

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 December 21, 2017 and I stand for any questions.

HEARING OFFICER LONG: So the Forest Service at this time has indicated that they will be granting additional right-of-way or an additional access point?

MR. ROMERO: Right now there's not certain clarification as to exactly what they're going to be granting as far as easement width or length of easement. However, they are working with the applicants in working with a new easement agreement for the applicant. And the applicant's agent can probably address that a little bit more clearly because he's been working with the United States Forest Service in regards to this easement agreement.

HEARING OFFICER LONG: Very well, I will ask the applicant about that. Thank you. Please, come forward.

JOSEPH KARNES: Good afternoon, Hearing Officer Long Joseph Karnes, Sommer, Karnes and Associates. I am here on behalf of the property owner, Fredance LLC as well as the Wholeness, a development partner. The Wholeness is a non-profit religious organization that plans to build a small religious facility on the property.

I just want to reiterate that initially Mr. Romero's comment about staff's review of the actual road that exists within the easement across the Forest Service property and the private property: the easement is 30 feet. The existing road is 20 feet in width and I'll just read from the staff report, Staff conducted a site visit and feels that the offsite road, Glorieta Mesa Road is in good condition and with some maintenance can meet the SLDC requirements for width. So we're not talking about actual access, we're talking about easement width and the variance request is based on that.

This is a very rural area on top of Glorieta Mesa. We don't anticipate that there would be any need to ever expand that existing all-weather dirt road and given that the road is in compliance with a little bit of maintenance of the SLDC requirements, the actual access for both property owners, visitors, fire and emergency vehicles is adequate according to staff.

In the event you recommend approval, Hearing Officer Long we are okay with the recommended condition of approval. The issue with the US Forest Service was that they took a position that the original easement was entered into with an entity, the homeowners association for the properties on top of the mesa, at one point that entity became revoked and beyond the period with the Secretary of State so it no longer existed from a legal perspective. They reinstituted that entity back in 2013 and as far as we knew everything was fine with the Forest Service. The homeowners association continued to make the annual payments of \$150 or so and they were accepted by the Forest Service, however, relatively recently back in June the Forest Service said because of the entity's status they were not recognizing the validity of the easement. Since then, as Mr. Romero indicated, we have been working with the Forest Service and we anticipate that they will reissue the easement, the same length of the easement and the same width of the easement. The issue only had to do with the entity to which it was issued.

HEARING OFFICER LONG: I understand now. I thought maybe they were granting some additional right-of-way.

MR. KARNES: We don't anticipate that they would be interested in doing that.

HEARING OFFICER LONG: But they are reinstituting from their point of view the easement in good standing.

MR. KARNES: Exactly, and that's the exercise that we're going through now.

MS. LUCERO: Hearing Officer Long if I could just clarify. I believe the easement agreement also talked about use and there was a specific statement that said that the easement would not be granted for subdivision purposes. So being that there is a subdivision proposal coming in then currently the way that the current easement is worded it wouldn't be allowed or it wouldn't be sufficient for that subdivision.

HEARING OFFICER LONG: But not for this application but for a different application that would ask for subdivision?

MS. LUCERO: Correct.

MR. KARNES: If I may, Hearing Officer Long. I was going to make that same point. But that is not part of this application and I anticipate that will be addressed within the easement reissuance and I appreciate Ms. Lucero for pointing that out.

HEARING OFFICER LONG: I notice in your in the staff report that you state that this variance implicates the Religious Land Use and Institutional Persons Act and lists the acts that are prohibited. Other than that listing you made, is there anything else that you would like to add to fill that out?

MR. KARNES: I would just like to point out that the development application we split it from this variance application at the recommendation of staff and we took their comments into consideration but the reason for this application is to facilitate establishment of a religious use on the property.

HEARING OFFICER LONG: So you're saying the development application was separated from this one in order to get the variance first and proceed with that application.

MR. KARNES: Right, that there would be no need to go through the expense of going through the engineering and planning process on the application if this variance is denied.

HEARING OFFICER LONG: And that's why the religious use is implicated?

MR. KARNES: That is part of the same effort that we're going through this process in an effort to establish a religious use on the property.

HEARING OFFICER LONG: All right.

MR. KARNES: Thank you.

HEARING OFFICER LONG: Thank you. Is there anyone here who came this afternoon to speak to this case? I will note for the record that there is no one wishing to speak to this case. All right, thank you Mr. Karnes and Mr. Romero. We will conclude that case.

D. Case #V17-5280 Pamela Barish Variance. Pamela Barish, Applicant, Santa Fe Planning INC. (Scott Hoeft) 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 road to exceed 9 percent grade, to allow a roadway to be less than (20) feet in width and Section 7.11.6.6 to allow a grade at the approach of an intersection to exceed 5 percent for every one hundred (100) linear feet prior to the radius return of the intersection. The property is located at 30 Sendero del Oso, and is zoned Rural Residential (RUR-R), within Section 32, Township 19 North, Range 10 East (Commission District 1)

Hearing Officer Long read the case caption and invited staff to provide their report.

MR. ROMERO: Thank you, Hearing Officer Long. The Applicant, Pamela Barish, is the owner of the property at Sendero del Oso as indicated by the warranty deed recorded in the records of the Santa Fe County Clerk on October 30, 2005, as Instrument number 1455680.

The Applicant's intention is to obtain a residential building permit either by the Applicant or their representatives. But Sendero del Oso 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 an existing road to exceed the required 9 percent grade and to have a road width of 10 to 14 feet, which is less than the required 20 feet and two 10-foot driving lanes as indicated in Table 7-13. The Applicant is also requesting a variance of Chapter 7, Section 7.11.6.6 to allow a grade at the approach of an intersection to exceed 5 percent for 100 linear feet prior to the radius return of the intersection.

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December 8, 2017

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

Re: Application for Road Easement Width Variance - Case No. V175090
323A Glorieta Mesa Road (the "Property")

Dear Planning Commissioner:

This application has been submitted to facilitate establishment of a small meditation pavilion on the Property, which is located near the end of Glorieta Mesa Road (the "Road"), on top of Glorieta Mesa southwest of Pecos. The existing 20+ - foot wide private Road meets all applicable County standards and is located within a 30-foot wide easement that crosses land owned by the U.S. Forest Service and 5 privately owned properties. The Road provides access to 3 existing residential dwellings and terminates just north of the Property.

The Crystal Earth Pavilion is a permitted use under the SLDC and will be used by individuals from all walks of life, who desire to amplify, accelerate or enhance their inner personal or spiritual experiences through meditation or prayer. The Pavilion's architecture incorporates ancient sacred geometry and the structure will house crystals that amplify the Earth's energy and the individual's personal experience. The Pavilion is designed for the "individual experience," and there are no large group gatherings or regular services.

The Pavilion is expected to generate about the same amount of traffic as one single family dwelling. Given the existence of the Road and the 30-foot wide easement, the only reason a wider easement would be warranted would be if the Road needed to be substantially widened. That is not the case for the Pavilion project, which can be accommodated by the existing minimally used Road, and can approved administratively.

The easement width variance is needed because the SLDC requires a 50-foot wide road easement for non-residential development, regardless of how much traffic the local road carries. In this case, as the attached drawing shows, the existing easement is more than adequate to accommodate the existing private Road, which in turn is adequate to accommodate the existing traffic from the 3 dwellings and the traffic generated by the Pavilion.



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SOMMER, KARNES & ASSOCIATES, LLP

Santa Fe County Planning Commission

December 8, 2017

The application satisfies each of the three criteria for issuance of the requested variance. The request furthers the public interest by facilitating establishment of a permitted use for which the existing road access complies with SLDC requirements.

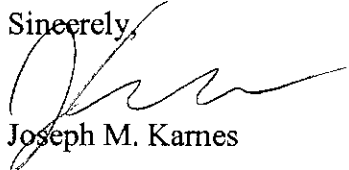
Requiring an additional 20-feet of dedicated easement would not advance any practical purpose because the existing Road and easement are adequate to accommodate the minimal traffic on this private road. Given the multiple property owners who would be required to approve expansion of the easement, requiring their consent would constitute an undue hardship that would be difficult if not impossible to achieve. The existing 30-foot wide easements were granted many years ago and the 6 property owners would have no incentive to further encumber their properties with a wider easement. The Fire Marshal has reviewed both the variance application and the planned Pavilion and has indicated his support from a public safety perspective, subject to approval of a fire management plan which the applicant is prepared to submit with the development permit application.

The Property on top of Glorieta Mesa was selected for the Pavilion site based on its unique geologic and topographic features and energetic properties of the land. Relocating the Pavilion to another area would constitute an undue hardship, as the group has been actively looking for a site that energetically aligns with all their purposes for over 10 years. The Property is the only site that fulfills all the parameters for establishment of the Pavilion. If the variance request were denied, the hardship would be suffered by the organization without the County having achieved any practical objective with respect to the road easement.

Granting the variance will further the spirit of the SLDC by facilitating establishment of a permitted use in full compliance with the SLDC with the exception of the additional 20-feet of easement width, which is not needed to serve the use. Allowing use of the existing Road and easement to accommodate the minimal traffic generated by the Pavilion will not result in any significant change to the status quo and will ensure that substantial justice is done in this case and that the desired individual spiritual practices can be carried out.

Thank you for your consideration of this application.

Sincerely,



Joseph M. Karnes

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