DATE: September 14, 2017

TO: Santa Fe County Planning Commission

FROM: John Lovato, Development Review Specialist Sr. VL for JL

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

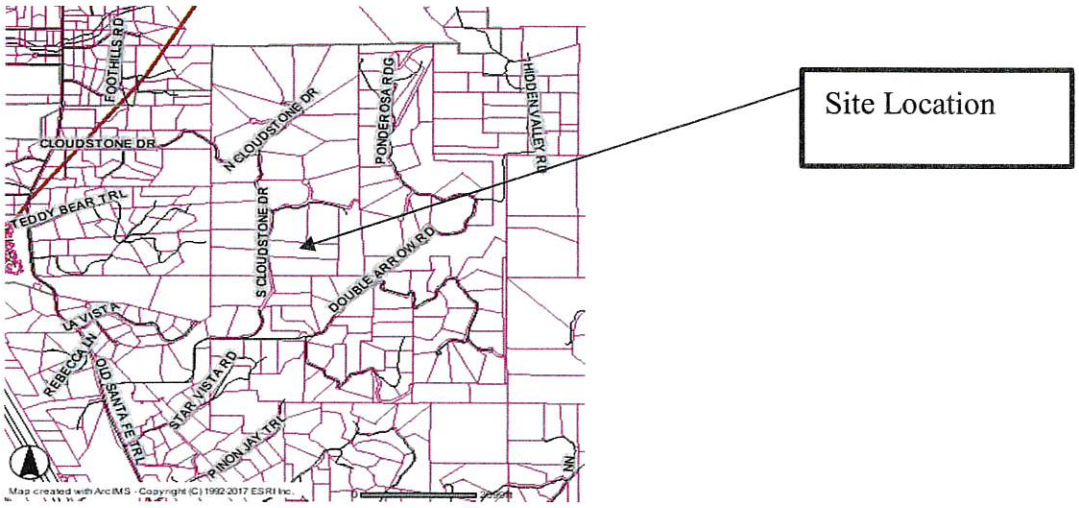
FILE REF.: CASE # V 17-5130 Kevin Braun Variances

ISSUE:

Kevin Braun, Applicant, requests a variance of Chapter 7.17.10.4.2 (Roads and driveways) to allow a driveway to disturb 8 separate occurrences of 25% slope or greater.

The property is located at 16 S. Cloudstone Drive, within Section 5, Township 16 North, Range 10 East (Commission District 4)

Vicinity Map:



NBC-1

more than three (3) isolated occurrences of up to one thousand (1,000) square feet each, provided that the applicant demonstrates that crossing such slopes has minimal impact to the terrain or to the visual quality and otherwise would conform to the purposes, design criteria and development standards set forth in this Section 7.17.

Chapter 4, Section 4.9.7.1, Variances, Purpose
The purpose of this Section is to provide a mechanism in the form of a variance that grants a landowner relief from certain standards in this code where, due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner. The granting of an area variance shall allow a deviation from the dimensional requirements 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 (Exhibit 5)
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 Variance Conditions of approval.

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

The Applicants response to the variance review criteria is as follows:

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

Applicant's Statement: The variance request is not contrary to public interest because we will be building a residence that matches the existing criteria of the surrounding homes within this neighborhood.

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posting regarding the Application was made for fifteen days on the property, beginning on July 12, 2017. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on July 12, 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 (Exhibit 6).

This Application was submitted on May 16, 2017.

RECOMMENDATION:

On July 27, 2017, this Application was presented to the Hearing Officer for consideration. The Hearing Officer supported the Application as memorialized in the findings of fact and conclusions of law written order. The Hearing officers recommend approval to allow disturbance of 8 isolated disturbances of 25% slope for a driveway to access buildable area and finds sufficient evidence of extraordinary and exceptional conditions that would cause the Applicant undue hardship with strict compliance of the Code.

Staff also recommends approval of the variance. The Application is not in strict compliance with the SLDC, but this Application meets the criteria necessary for granting a variance. Due to the topography of the lot, the Applicant is unable to build a home on their lot without some sort of variance. Criteria 1 is that the request is not contrary to the public interest. The request meets this criteria as the site offers limited buildable area and meets all other aspect of the SLDC. The inability to build on the property due to the requirements in Chapter 7, Section 7.17.10.4.1, demonstrates that they have met the variance criteria 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 access to the only buildable area on this property crosses three drainages. The terrain on this property consists of steep slopes due to drainages and offers minimal building locations. In order to construct any residence on this property a variance request is necessary. This causes peculiar and exceptional practical difficulties or exceptional and undue hardship on the Applicant/Owner, which meets Criteria 3, that the spirit of the SLDC is met.

EXHIBITS:

1. Applicants Request
2. Proposed Plans
3. Aerial Photo of Site
4. Chapter 7.17.10.4. (Roads and driveways).
5. Chapter 4, Section 4.9.7.4, Variance Review criteria
6. Notice
7. July 27, 2017, Hearing Officer Meeting Minutes
8. Hearing Officers Recommended Decision and Order

License # 370608

BRAUN
CONSTRUCTION LLC

PO Box 1012 Santa Fe, NM 87504 (505) 982-0302

May 16, 2017

Santa Fe County
102 Grant Ave.
Santa Fe, NM 87504

Re: New Driveway at 16 S. Cloudstone Dr.

The Planning Commission Board:

We have recently purchased **Lot 21** located within the *Monte de Las Piedras Rosas Subdivision*. This is a legal 10 acre parcel, also known as 16 South Cloudstone Drive.

We are requesting a variance, due to the extraordinary and exceptional site conditions of this property to build a new driveway according to plan sheets C-1 and C-2 as drawn by *Walker Engineering*. The strict application of the current code would result in peculiar practical difficulties and exceptional hardship.

Also, the variance request is not contrary to public interest because we will be building a residence that matches the existing criteria of the surrounding homes within this neighborhood. This adds real value to the community and will provide future tax revenue in the form of property taxes and sales tax to the County. We plan to follow the spirit of the SLDC to the best our knowledge.

Sincerely,

Kevin Braun
Jacqueline Rea

CC: file

NBC-4

License # 370608

BRAUN
CONSTRUCTION LLC

PO Box 1012 Santa Fe, NM 87504 (505) 982-0302

March 2, 2017

Santa Fe County
102 Grant Ave.
Santa Fe, NM 87504

Re: New Driveway

The Planning Commission Board:

We have recently purchased **Lot 21** located within the *Monte de Las Piedras Rosas Subdivision*. This is a legal 10 acre parcel, also known as 16 South Cloudstone Drive.

Currently, there are no improvements on the property, but we would like to develop a new driveway to the building site. We have conducted site meetings with members of the County Fire Department, Building Department, and an Architect.

As you know, every construction project contains its own unique set of challenges. In this instance, the land has a steep hill going to a small mountain peak on the East side of the property. There's no access to the top of the hillside without traveling through the adjoining neighbor's private property. The West side of the lot has flatter terrain, but it's surrounded by arroyos and within a flood plain. An Architect has indicated that it would be unstable conditions for a permanent residence to be built so close to the floodplain.

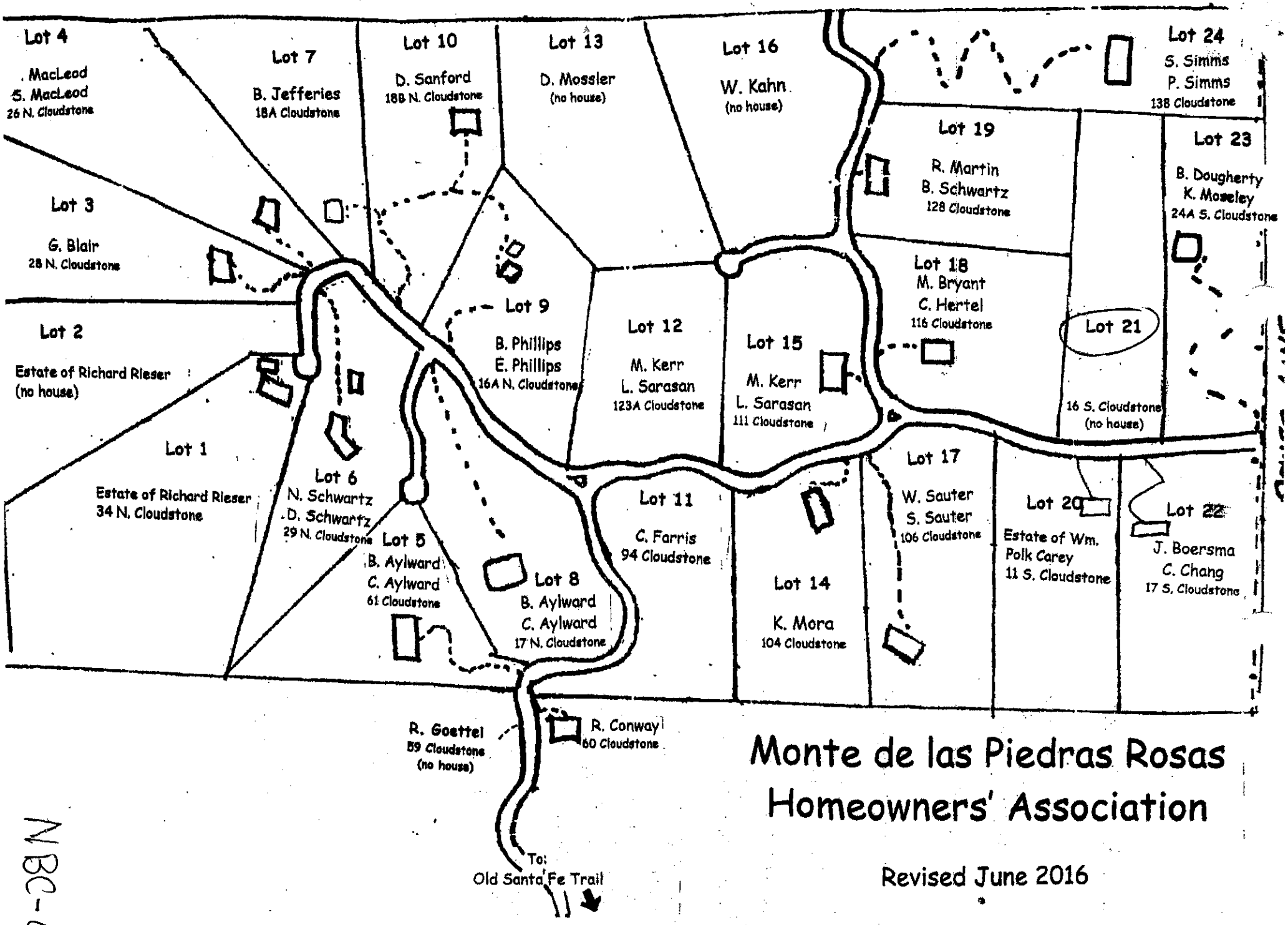
We are requesting a variance, due to the extraordinary and exceptional site conditions of this property, to build a new driveway according to plan sheets C-1 and C-2 as drawn by *Walker Engineering.*

Sincerely,

Kevin Braun
Jacqueline Rea

CC: file

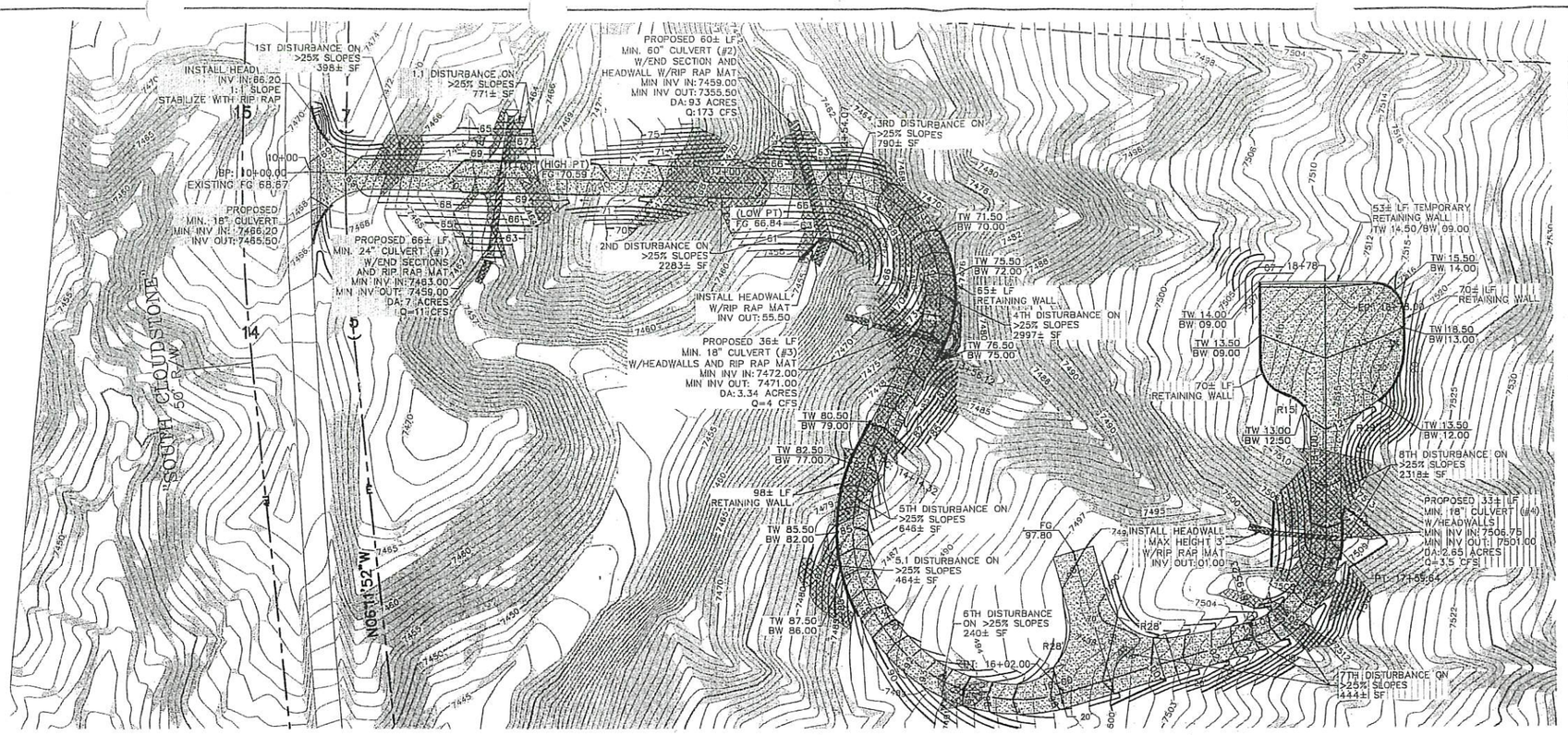
NBC-5



Monte de las Piedras Rosas Homeowners' Association

Revised June 2016

NBC-6



TOPOGRAPHY NOTE

ALL EXISTING TOPOGRAPHIC SURVEY DATA SHOWN ON THESE PLANS HAS BEEN OBTAINED AND CERTIFIED BY OTHERS. WALKER ENGINEERING HAS UNDERTAKEN NO FIELD VERIFICATION OF THIS TOPOGRAPHY INFORMATION, AND MAKES NO REPRESENTATION PERTAINING THERETO, AND ASSUMES NO RESPONSIBILITY OR LIABILITY THEREFOR OF THIS TOPOGRAPHY. WALKER ENGINEERING RESPONSIBILITY IS LIMITED TO THE ENGINEERING ANALYSIS THAT UTILIZES THE TOPOGRAPHY SURVEY.

STAKING NOTE

INFORMATION SHOWN IS FOR GRADING AND DRAINAGE ONLY AND IS NOT TO BE USED FOR STAKING PURPOSES. SEE SITE PLAN FOR ACTUAL LOCATION OF IMPROVEMENTS.

EARTHWORK

CUT: 1560 CY
FILL: 1872
NET: 312 CY (IMPORT)
*CALCULATION TO TOP OF SUB-GRADE
*COMPACTION FACTOR NOT INCLUDED

DISTURBANCE NOTE

DRIVEWAY SLOPE DISTURBANCES ON >30% SLOPES:
1ST OCCURRENCE: 398 SF
1.1 OCCURRENCE: 771 SF
2ND OCCURRENCE: 2283 SF
3RD OCCURRENCE: 790 SF
4TH OCCURRENCE: 2997 SF
5TH OCCURRENCE: 646 SF
5.1 OCCURRENCE: 464 SF
6TH OCCURRENCE: 240 SF
7TH OCCURRENCE: 444 SF
8TH OCCURRENCE: 2318 SF

TREE NOTE

THERE WILL BE 3 TREES REMOVED THAT ARE GREATER THAN 8" IN DIAMETER.

RECORD DRAWINGS

THIS RECORD DOCUMENT HAS BEEN PREPARED BASED ON THE BEST AVAILABLE INFORMATION AS PROVIDED BY OTHERS. WALKER ENGINEERING CERTIFIES THAT THE INFORMATION SHOWN IS A REASONABLE DOCUMENTATION OF THE FINAL CONSTRUCTION.

MOREY E. WALKER, P.E. 12105 DATE

SCALE: 1" = 30'
30' 0 30'
CONTOUR INTERVAL = ONE FOOT (1')
PROFILE HORIZ: 1"=50'
PROFILE VERTICAL: 1"=5'

LEGEND

- EXISTING CONTOURS
- DESIGN CONTOURS
- SITE BOUNDARY
- SPOT ELEVATION
- FG — FIELD GRADE
- TW — TOP OF WALL
- WATER FLOW DIRECTION
- FINISHED PAD
- RETAINING WALL
- PROPOSED GRAVEL
- 20%-25% SLOPES
- >25% SLOPES
- SLOPE DISTURBANCE

Civil Engineering • Water Resources • Traffic Engineering
W • E Walker Engineering
905 Camino Sierra Vista, • Santa Fe, NM 87505
505-820-7990
FAX 505-820-3559
E-MAIL: civilwalkerengineering.net

No.	REVISION	BY	APP.	DATE

PROJECT: 16-179 DESIGNED BY: P.L.B.
FILE: 179 GRADE DRAWN BY: P.L.B.
DATE: 6/29/17 CHECKED BY: M.E.W.
SCALE: AS NOTED

PROJECT: 16 SOUTH CLOUDSTONE DR.
SHEET TITLE: GRADING AND DRAINAGE PLAN

CITY REVIEW — SIGN-OFF

DEPARTMENT	DATE
WASTEWATER	
PW ENGINEERING	
TRAFFIC	
FIRE DEPARTMENT	
SOLID WASTE	
LANDSCAPE	
TRAILS/OPEN SPACE	
SUBDIVISION REVIEW	

SHEET NO. C-1

NBC-7

EXHIBIT 2.

Walker Engineering
905 Camino Sierra Vista
Santa Fe, NM 87505

Project: Canada Residence (BASIN 1) — Project No: 17-117 — Date: 5/12/17

Method #1 - Analysis of the Magnitude and Frequency of Peak Discharge and Maximum Observed Peak Discharge in NM

Northern Mountain Region
Equation:
$Q_{100} = (2.80x10^{-5})(A^{0.98})(E/1000)^{-5.46}(I_{6.25}{}^{5.136})$
A = Drainage Area (sq. miles) — I = Rainfall Intensity (inches)
E = Mean Basin Elevation (ft)

Method 1 Peak Discharge

Basin	Area (acres)	Area (mi^2)	E (ft)	I (inches)	Discharge (cfs)
Basin 1	7	0.01	6944	3.60	7.1

Method #2 - USGS TR-20 Computer Model w/ NM Rainfall Data

Time of Concentration
ToC= ((11.9*L^3)/H)^0.385

Basin	Length of Water Course (L) miles	Upper Elevation	Lower Elevation	Diffence Elev. (H)	Time of C (hr)
Basin 1	0.19	6061	6027	34.00	0.096

Peak Discharge

Basin	Area (mi^2)	CN	ToC	Discharge (cfs)
Basin 1	0.011	68.00	0.10	10.2

SUMMARY OF DISCHARGES

Summary - $Q_{100yr/6hr}$ (cfs)		
	Method #1	Method #2
Basin 1	7.1	10.2

Culvert Design for 11 CFS
1-24" DIAMETER CULVERT
HW/D = 0.85

Walker Engineering
905 Camino Sierra Vista
Santa Fe, NM 87505

Project: Canada Residence (BASIN 3) — Project No: 17-117 — Date: 5/12/17

Method #1 - Analysis of the Magnitude and Frequency of Peak Discharge and Maximum Observed Peak Discharge in NM

Northern Mountain Region
Equation:
$Q_{100} = (2.80x10^{-5})(A^{0.98})(E/1000)^{-5.46}(I_{6.25}{}^{5.136})$
A = Drainage Area (sq. miles) — I = Rainfall Intensity (inches)
E = Mean Basin Elevation (ft)

Method 1 Peak Discharge

Basin	Area (acres)	Area (mi^2)	E (ft)	I (inches)	Discharge (cfs)
Basin 3	3.34	0.0052	7612	3.60	2.6

Method #2 - USGS TR-20 Computer Model w/ NM Rainfall Data

$t_c = 0.83 (NL/S^{0.5})^{0.57}$

Basin	Length of Water Course (L) FT.	Upper Elevation	Lower Elevation	Slope (ft/ft)	Time of C (min)
Basin 3	980.00	7752	7472	0.31	9.1

Peak Discharge

Basin	Area (acres)	CN	ToC	Discharge (cfs)
Basin 3	3.338	68.00	9.05	4.1

SUMMARY OF DISCHARGES

Summary - $Q_{100yr/6hr}$ (cfs)		
	Method #1	Method #2
Basin 3	2.6	4.1

Culvert Design for 4 CFS
1-18" DIAMETER CULVERT
HW/D = 0.75

Walker Engineering
905 Camino Sierra Vista
Santa Fe, NM 87505

Project: Canada Residence (BASIN 2) — Project No: 17-117 — Date: 5/12/17

Method #1 - Analysis of the Magnitude and Frequency of Peak Discharge and Maximum Observed Peak Discharge in NM

Northern Mountain Region
Equation:
$Q_{100} = (2.80x10^{-5})(A^{0.98})(E/1000)^{-5.46}(I_{6.25}{}^{5.136})$
A = Drainage Area (sq. miles) — I = Rainfall Intensity (inches)
E = Mean Basin Elevation (ft)

Method 1 Peak Discharge

Basin	Area (acres)	Area (mi^2)	E (ft)	I (inches)	Discharge (cfs)
Basin 2	93	0.15	6948	3.60	55.3

Method #2 - USGS TR-20 Computer Model w/ NM Rainfall Data

Time of Concentration
ToC= ((11.9*L^3)/H)^0.385

Basin	Length of Water Course (L) miles	Upper Elevation	Lower Elevation	Diffence Elev. (H)	Time of C (hr)
Basin 2	0.88	6951	6928	23.00	0.043

Peak Discharge

Basin	Area (mi^2)	CN	ToC	Discharge (cfs)
Basin 2	0.145	68.00	0.04	8.8

SUMMARY OF DISCHARGES

Summary - $Q_{100yr/6hr}$ (cfs)		
	Method #1	Method #2
Basin 2	55.3	8.8

Culvert Design for 7 CFS
1-18" DIAMETER CULVERT
HW/D = 0.90

Walker Engineering
905 Camino Sierra Vista
Santa Fe, NM 87505

Project: Canada Residence (BASIN 4) — Project No: 17-117 — Date: 5/12/17

Method #1 - Analysis of the Magnitude and Frequency of Peak Discharge and Maximum Observed Peak Discharge in NM

Northern Mountain Region
Equation:
$Q_{100} = (2.80x10^{-5})(A^{0.98})(E/1000)^{-5.46}(I_{6.25}{}^{5.136})$
A = Drainage Area (sq. miles) — I = Rainfall Intensity (inches)
E = Mean Basin Elevation (ft)

Method 1 Peak Discharge

Basin	Area (acres)	Area (mi^2)	E (ft)	I (inches)	Discharge (cfs)
Basin 4	2.66	0.0041	7639	3.60	2.1

Method #2 - USGS TR-20 Computer Model w/ NM Rainfall Data

$t_c = 0.83 (NL/S^{0.5})^{0.57}$

Basin	Length of Water Course (L) FT.	Upper Elevation	Lower Elevation	Slope (ft/ft)	Time of C (min)
Basin 4	780.00	7752	7507	0.35	7.8

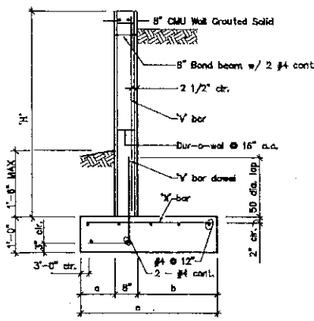
Peak Discharge

Basin	Area (acres)	CN	ToC	Discharge (cfs)
Basin 4	2.654	68.00	7.82	3.5

SUMMARY OF DISCHARGES

Summary - $Q_{100yr/6hr}$ (cfs)		
	Method #1	Method #2
Basin 4	2.1	3.5

Culvert Design for 3.5 CFS
1-18" DIAMETER CULVERT
HW/D = 0.75

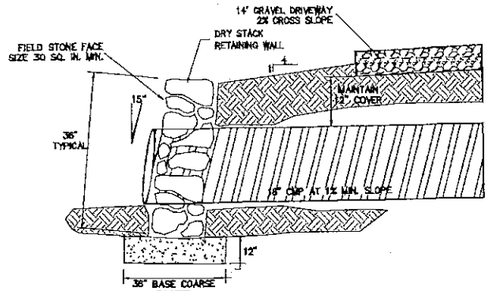


8" CMU RETAINING WALL SCHEDULE					
H	a	b	c	"V"	"X"
6'-0" to 8'-0"	1'-2"	2'-4"	4'-2"	#6 @ 8"	#4 @ 16"
4'-0" to 6'-0"	8"	1'-8"	3'-2"	#5 @ 24"	#4 @ 24"
less than 4'-0"	8"	10"	2'-0"	#4 @ 32"	#3 @ 32"

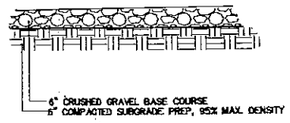
Rebar fy = 60,000 psi
Concrete Fc = 3,000 psi
CMU fm = 1500psi
Note: "V" bar dowels same size, spacing and clearance as "V" bars.

NOTE: THIS SCHEDULE DOES NOT APLY TO WALLS HAVING A SLOPING BACKFILL OF MORE THAN A 10% SLOPE

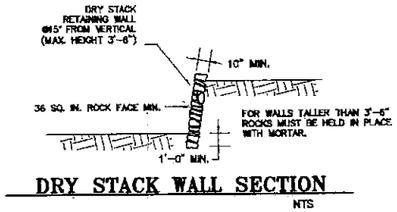
RETAINING WALL



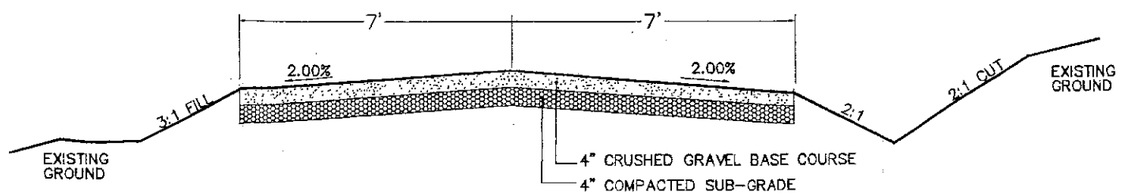
CULVERT HEADWALL DETAIL
N.T.S.



GRAVEL SECTION
NOT TO SCALE



DRY STACK WALL SECTION
NTS



TYPICAL SECTION
NOT TO SCALE

Civil Engineering • Water Resources • Traffic Engineering
W•E Walker Engineering
905 Camino Sierra Vista, • Santa Fe, NM 87505
505-660-7960
FAX 505-820-3550
E-MAIL civil@walkerengineering.net

No.	REVISION	BY	APP.	DATE

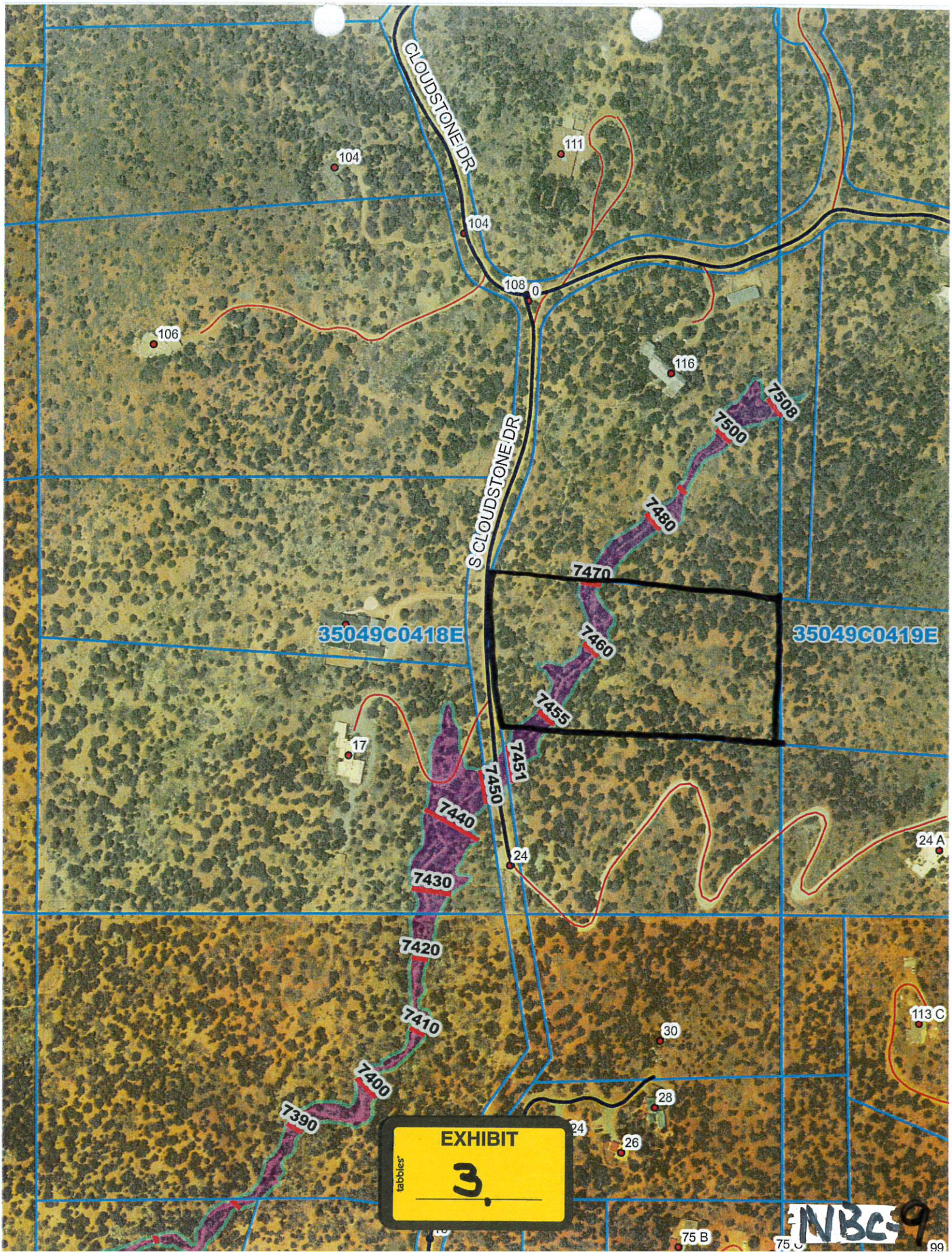
PROJECT: 14-179
FILE: 17A GRADE
DATE: 5/18/17
SCALE: AS NOTED
DESIGNED BY: P.L.B.
DRAWN BY: P.L.B.
CHECKED BY: M.E.W.

CITY REVIEW SIGN-OFF

DEPARTMENT	DATE
WASTEWATER	
PW ENGINEERING	
TRAFFIC	
FIRE DEPARTMENT	
SOLID WASTE	
LANDSCAPE	
TRAILS/OPEN SPACE	
SUBDIVISION REVIEW	

PROJECT: 16 SOUTH CLOUSTONE DR.
SHEET TITLE: DETAILS
SHEET NO. C-2

NBC-8


CLOUDSTONE DR
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113 C
75 B
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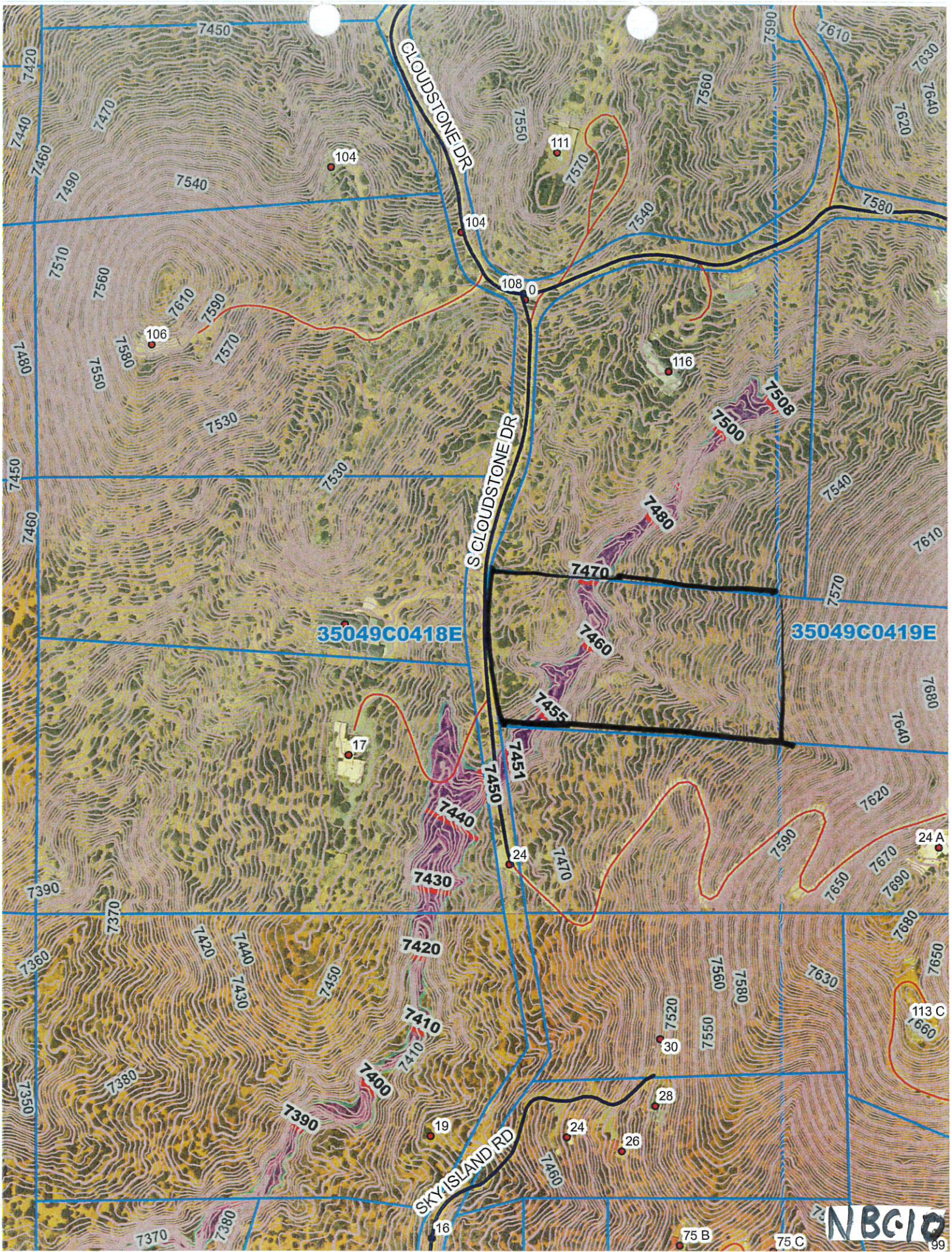
EXHIBIT
3
tabbies
NBC-9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35049C0419E
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113 C
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7500
7455
7451
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7650
7690
7680
NBG-10

a. Selection of a less visible or non-visible development site.

b. Consolidation and/or adjustment of lot lines, relocation of buildable areas, and/or realignment of proposed roads and driveways.

c. Use of additional screening, buffering or setbacks.

7.17.10.3. Disturbed Area Limitation.

1. The disturbed area on any lot shall not exceed twelve thousand (12,000) square feet, disturbance for the required primary driveway shall not be included in the disturbed area square footage. The location and calculation of the disturbed area on the lot shall be identified on the site development plan.

2. All construction staging areas shall be fenced prior to construction to prevent damage to all areas that are not designated as the disturbed area on a lot.

3. Utility corridors, septic leach fields, construction staging areas and any other portion of the designated disturbed area that is not occupied by improvements shall be revegetated.

4. Walls or fences shall be included in calculating disturbed area when such walls or fences are impermeable with respect to overland sheet flow of water or would inhibit water infiltration.

7.17.10.4. Roads and driveways.

1. Roads and driveways shall not be designed or constructed on slopes of over twenty-five percent (25%).

2. Exceptions may be approved by the Administrator for roads and driveways proposed to cross slopes greater than twenty five percent (25%) that disturb no more than three (3) isolated occurrences of up to one thousand (1000) square feet each, provided the applicant demonstrates that crossing such slopes has minimal impact to terrain or to visual quality and otherwise would conform to the purposes, design criteria and development standards set forth in this Section 7.17.

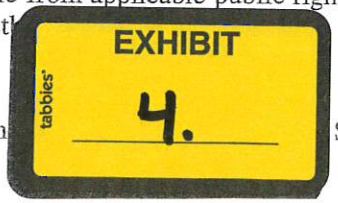
7.17.10.5. Architectural and Appearance Standards.

1. Window and door glazing shall be limited to no more than thirty percent (30%) of a facade, except:

a. Glazing shall be limited to no more than fifty percent (50%) under portals eight feet (8') or deeper.

b. Glazing shall be non-mirrored and the LRV shall be less than twenty percent (20%).

7.17.10.6. Setbacks. Setbacks shall be no less than one hundred feet (100') from a ridge, ridgetop, ridgeline or shoulder unless it can be demonstrated to the Administrator, after a field inspection that structures built within the default minimum setback would be non-visible or less visible from applicable public rights of way than structures built outside the default minimum set



NBC-11

c. the proposal conforms to the SLDC and is consistent with the goals, policies and strategies of the SGMP.

2. Minor Amendments Causing Detrimental Impact. If the Administrator determines that there may be any detrimental impact on adjacent property caused by the minor amendment's change in the appearance or use of the property or other contributing factor, the owner/applicant shall be required to file a major amendment.

3. Major Amendments. Any proposed amendment, other than minor amendments provided for in Section 4.9.6.9.1, shall be approved in the same manner and under the same procedures as are applicable to the issuance of the original CUP development approval.

4.9.6.10. Expiration of CUP. Substantial construction or operation of the building, structure or use authorized by the CUP must commence within twenty-four (24) months of the development order granting the CUP or the CUP shall expire; provided, however, that the deadline may be extended by the Planning Commission for up to twelve (12) additional months. No further extension shall be granted under any circumstances, and any changes in the requirements of the SLDC, or federal or state law shall apply to any new CUP development approval application.

4.9.7. Variances.

4.9.7.1. Purpose. The purpose of this Section is to provide a mechanism in the form of a variance that grants a landowner relief from certain standards in this code where, due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner. The granting of an area variance shall allow a deviation from the dimensional requirements 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.

4.9.7.2. Process. All applications for variances will be processed in accordance with this chapter of the Code. A letter addressing Section 4.9.7.4. review criteria must accompany the application explaining the need for a variance.

4.9.7.3. Applicability. When consistent with the review criteria listed below, the planning commission may grant a zoning variance from any provision of the SLDC except that the planning commission shall not grant a variance that authorizes a use of land that is otherwise prohibited in the relevant zoning district.

4.9.7.4. Review criteria. A variance may be granted only by a majority of all the members of the Planning Commission (or the Board, on appeal from the Planning Commission) based upon 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 ved and substantial justice is done.

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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.

4.9.7.6. Administrative minor deviations. The Administrator is authorized to administratively approve minor deviations upon a finding that the deviation is required, that the result is consistent with the intent and purpose of this SLDC, and that the deviation is not detrimental to adjacent or surrounding properties as follows:

1. minor deviations from the dimensional requirements of Chapters 7, 8 and 9 of the SLDC not to exceed ten percent (10%) of the required dimension; and

2. minor deviations from the density dimensional standards of Chapter 8 of the SLDC not to exceed five tenths of a percent (0.5%) of the gross acreage allowed in the zoning district.

4.9.8. Beneficial Use and Value Determination (BUD).

4.9.8.1. Purpose. The intent of the SLDC is to provide, through this Section, a process to resolve any claims that the application of the SLDC constitutes an unconstitutional regulatory taking of property. This Section is not intended to provide relief related to regulations or actions promulgated or undertaken by agencies other than the County. The provisions of this Section are not intended to, and do not, create a judicial cause of action.

4.9.8.2. Application. In order to evaluate whether, and if so, the extent to which, application of the SLDC unconstitutionally creates a regulatory taking without just compensation, or other constitutional deprivation, an applicant, once denied development approval or granted conditional development approval, or as otherwise provided in Section 7.16.3.1, may apply to the Administrator for a beneficial use and value determination, the application for which shall describe:

1. the extent of diminution of use and value with respect to the entirety of the owner's, or lessee's real property interests in common ownership;

2. the distinct and reasonable investment backed expectations of the owner, lessee, or predecessors in interest, in common ownership;

3. the availability of cluster development, phased development, tax incentives, or transfers of development rights;

4. any variance or relief necessary or available to relieve any unconstitutional hardship or regulatory taking created;

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LEGAL# 82877

CASE# V 17-5130
Braun Variance

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held to consider a request by Kevin Braun Applicant, for a variance of Chapter 7.17.10.4.2 (Roads and driveways) to allow a driveway to disturb 8 separate occurrences of 25% slope or greater. The property is located at 16 S. Cloudstone Drive, within Section 5, township 16 North, Range 10 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 July 27, 2017, at 3 p.m. on a petition to the Santa Fe County Hearing Officer and on September 21, 2017, at 4 p.m. on a petition to the Santa Fe County Planning Commission.

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

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

Please forward affidavit of publication to the County Land Use Administrator, P.O. box 276, Santa Fe, New Mexico 87504-0276.

Written verification of the publication shall be provided to the Administrator prior to the public hearing.

Published in the Santa Fe New Mexican on Wednesday July 12, 2017

EXHIBIT
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6.

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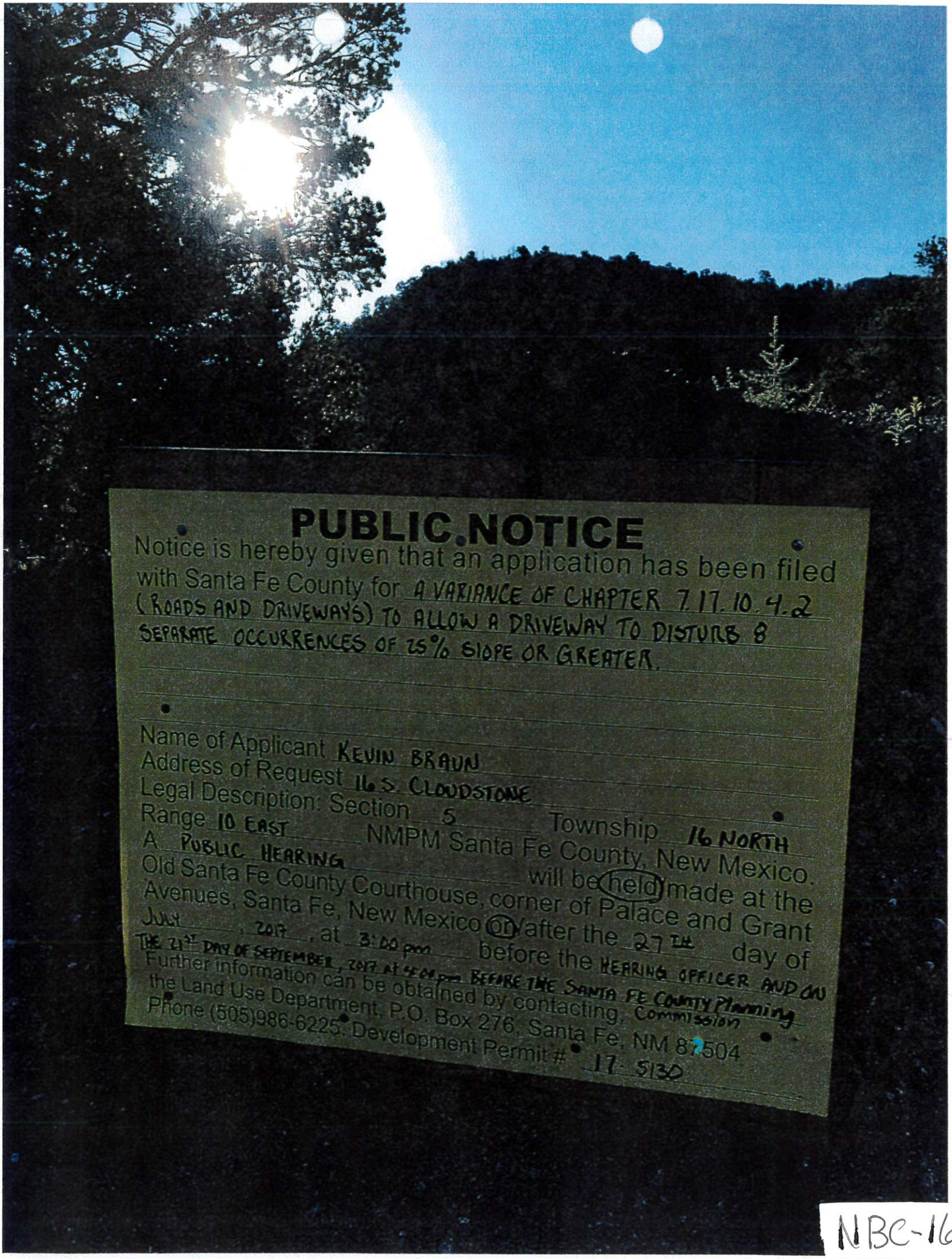

PUBLIC NOTICE

Notice is hereby given that an application has been filed with Santa Fe County for A VARIANCE OF CHAPTER 7.17.10.4.2 (ROADS AND DRIVEWAYS) TO ALLOW A DRIVEWAY TO DISTURB 8 SEPARATE OCCURRENCES OF 25% SLOPE OR GREATER.

Name of Applicant KEVIN BRAUN
Address of Request 16 S. CLOUDSTONE
Legal Description: Section 5 Township 16 NORTH
Range 10 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 or after the 27TH day of JULY, 2017, at 3:00 pm before the HEARING OFFICER AND ON THE 21ST DAY OF SEPTEMBER, 2017 AT 4:00 PM BEFORE THE SANTA FE COUNTY Planning Commission
Further information can be obtained by contacting the Land Use Department, P.O. Box 276, Santa Fe, NM 87504 Phone (505)986-6225. Development Permit # 17-5130

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MS. LUCERO: Hearing Officer Long, it also gets recorded down in the Clerk's Office, once you finalize your decision and the packets are actually put on line, the Planning Commission packets are on our website.

HEARING OFFICER LONG: So you can access it that way. Thank you all for coming this afternoon. I appreciate it.

E. CASE # V 17-5130 Kevin Braun Variance. Kevin Braun, applicant, requests a variance of Chapter 7.17.10.4.2 (Roads and driveways) to allow a driveway to disturb eight separate occurrences of 25 percent slope or greater. The property is located at 16 S. Cloudstone Drive, within Section 5, Township 16 North, Range 10 East (Commission District 4)

Hearing Officer Long read the caption.

JOHN LOVATO (Case Manager): Thank you, Hearing Officer Long. The property is located above the 7,400-foot elevation and is currently vacant. The property is subject to Chapter 7.17.10, Development at or above 7400 feet of the Sustainable Land Development Code. Section 7.17.10.4.1 states, "Roads and driveways shall not be designed or constructed on slopes over 25 percent." Section 7.17.10.4.2 states, "exceptions may be approved by the administrator for roads and driveways proposed to cross slopes greater than 25 percent that disturb no more than three isolated occurrences of up to 1,000 square feet each, provided the applicant demonstrates that crossing such slopes has minimal impact to terrain or to visual quality and otherwise would conform to the purposes, design criteria and development standards set forth in this Section 7.17."

Therefore, the applicant is pursuing the request for a variance to access what he has identified as the only buildable area on the property. The applicant is proposing to disturb eight occurrences of 25 percent slope for a total of 7,963 square feet of 25 percent slope disturbance for construction of a driveway. Two of these disturbances are above 1,000 square feet and the rest are all under 800 square feet. The proposed driveway is 900 feet in length, 14 feet in width, and has a maximum grade of 10 percent. The majority of the slope disturbances are due to natural drainages that affect the property.

The applicant states that there is no other buildable area on the property due to topography and drainages associated with the property. One of the arroyos on the property is a FEMA designated floodplain. The applicant's architect stated, "It would be unstable conditions for a permanent residence to be built so close to the floodplain." The applicant has engineering plans with drainage calculations and has designed all-weather access with a series of culverts. The applicant would like to get the driveway in place so he can began to build his residence.

The applicant has addressed the variance review and staff has responded as addressed in the report.

Recommendation: The application is not in strict compliance with the SLDC, but this application meets the criteria necessary for granting a variance. Due to the topography of the lot, the applicant is unable to build a home on their lot without some sort of variance. Criterion 1 is that the request is not contrary to the public interest. The

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request meets this criterion as the site offers limited buildable area and meets all other aspect of the SLDC.

The inability to build on the property due to the requirements in Chapter 7, Section 7.17.10.4.1, demonstrates that they have met the variance criteria 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 access to the only buildable area on this property crosses three drainages. The terrain on this property consists of steep slopes due to drainages and offers minimal building locations. In order to construct any residence on this property a variance request is necessary. This causes peculiar and exceptional practical difficulties or exceptional and undue hardship on the applicant/owner, which meets Criterion 3, that the spirit of the SLDC is met. Therefore, staff recommends approval of the applicant's request for the variance.

Staff requests the Hearing Officer memorialize findings of fact and conclusions of law in a written recommendation. The Santa Fe County Planning Commission will be holding a public hearing on this matter on September 21, 2017.

Hearing Officer Long, I stand for any questions you may have.

HEARING OFFICER LONG: Thank you. I know I had a question but I found it in the material, so thank you. Will the applicant come forward please and be sworn in?

[Duly sworn, Kevin Braun testified as follows:]

KEVIN BRAUN: I'm Kevin Braun and thank you for your time, Hearing Officer Long. We appreciate the recommendations of the staff. We don't have any comments at this time.

HEARING OFFICER LONG: Okay. Is this a house that you are building to sell? Not that that's relevant but since you're a builder, I'm wondering if this is a house that you're building for you or to sell.

MR. BRAUN: Yes, that's the plan. It's a long-term project. We understand that it's a difficult lot so we're giving ourselves several years to develop it properly and it's a desirable neighborhood so we feel like it's worth the effort.

HEARING OFFICER LONG: Great. Okay. Let's see if there is anyone here that came to speak to this request for a variance. And there is no one present who wishes to speak to this case. So that will close the public hearing. So I don't have any further questions. And good luck on this difficult lot.

MR. BRAUN: Thank you. Appreciate it.

F. CASE # V 17-5160 Prabhu Khalsa & Regina Spamer Variance. Prabhu Khalsa and Regina Spamer, Applicants, Request a Variance of the Sustainable Land Development Code Ordinance 2016-9 (SLDC) Chapter 7.17.9.3.2, Governing Height of a Structure, to Exceed 18 Feet on a Ridgetop, and to Allow a Two-Story Residence on a Ridgetop. The Applicants are also requesting a variance of Chapter 7.17.9.2.4 to Allow a Driveway to Disturb 30 Percent Slope to Access a Buildable Area. The property is Located at 01 Anand Nivas Way within the Vicinity of Sombrillo within Section 12, Township 20

CASE NO. V17-5130
Kevin Braun, Applicant

RECOMMENDED DECISION AND ORDER

THIS MATTER came before the Sustainable Land Development Code Hearing Officer for hearing on July 27, 2017, on the application of Kevin Braun, (Applicant) for a Variance of the Sustainable Land Development Code (SLDC). The Applicant seeks a variance of Chapter 7.17.10.4.2 (Roads and Driveways) to allow a driveway to disturb 8 separate occurrences of 25% slope or greater. The property, which is currently vacant, is located at 16 S. Cloudstone Drive (Property), within Section 5, Township 16 North, Range 10 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 well-taken and should be granted, and makes the following findings of fact and conclusions of law:

1. On May 16, 2017, the Applicant submitted his application for a variance of Chapter 7.17.10.4.2 (Roads and Driveways) to allow a driveway to disturb 8 separate occurrences of 25% slope or greater.

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

3. Notice requirements of the SLDC were met pursuant to Chapter 4, Section 4.6.3., General Notice of Application Requiring a Public Hearing. In advance of the hearing on the application, the Applicant provided an affidavit of posting of notice of the hearing, confirming that public notice posting regarding the application was made for fifteen days on the Property,

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beginning on July 12, 2017. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on July 12, 2017, as evidenced by a copy of that legal notice contained in the record. Notice of the hearing was sent to owners of land within 500' of the subject Property and a list of persons sent a mailing is contained in the record.

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

   A. Chapter 7, Section 7.17.10.4.1. (Roads and Driveways) provides:

      Roads and driveways shall not be designed or constructed on slopes over twenty-five percent (25%).

   B. Chapter 7.17.10.4.2.

      Exceptions may be approved by the Administrator for roads and driveways proposed to cross slopes greater than twenty-five percent (25%) that disturb no more than three (3) isolated occurrences of up to one thousand (1,000) square feet each, provided that the applicant demonstrates that crossing such slopes has minimal impact to the terrain or to the visual quality and otherwise would conform to the purposes, design criteria and development standards set forth in this Section 7.17.

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

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

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

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

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

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

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

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

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

2. All approved variances run with the land, unless conditions of approval imposed by the Planning Commission specify otherwise.

3. All approved variances automatically expire within one year of the date of approval, unless the Applicant files a plat implementing the variance or substantial construction of the building or structure authorized by the variance occurs within that time.

7. The Applicant and Staff have addressed the variance criteria as follows:

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

i. The Applicant stated that the variance request is not contrary to the public interest because he will be building a residence matching the existing criteria of the surrounding homes within the neighborhood.

ii. Staff stated that many of the surrounding properties were developed before Ordinance 1996-10 (the Land Development Code) was adopted. Santa Fe County did not address slope disturbance prior to the Code. Therefore, neighboring properties may not have been required to develop their properties taking into consideration the impact of the development on surrounding properties and watersheds.

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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 he requests the variance due to the extraordinary and exception site conditions to build a new driveway.

ii. Staff stated that strict Code requirements could allow the structure to be placed closer to South Cloudstone Drive to avoid the variance of road disturbance, but that would cause other problems with floodplain setbacks and would require a variance from property setbacks and setback from the FEMA Designated Flood Hazard Area, which would require engineering and alteration of drainage patterns on the site and could impact surrounding properties upstream and downstream from the site.

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

i. The Applicant stated that the construction will add value to the community, providing future tax revenue to the County in the form of property taxes and sales tax.

ii. Staff stated that due to the topography, the property has limited buildable area and requires slope disturbance. Any development within this lot will require some sort of variance whether it be a variance or slope disturbance or a variance to meet setbacks from property boundaries or setbacks from the FEMA Floodplain Hazard Area.

8. At the public hearing, no one spoke in 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 sufficient evidence of extraordinary and exceptional conditions that would result in undue hardship to the Applicant

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from a strict application of the Code and that the Applicant has met the variance criteria of the SLDC.

WHEREFORE, the Hearing Officer, based on the evidence presented, recommends approval of a Variance of Chapter 7.17.10.4.2 (Roads and Driveways) to allow a driveway to disturb 8 separate occurrences of 25% slope or greater.

Respectfully submitted,

Nancy R. Long
Hearing Officer

Date: 8-15-17

SLDC HEARING OFFICER 0
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COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

I Hereby Certify That This Instrument Was Filed for Record On The 16TH Day Of August, 2017 at 10:06:52 AM And Was Duly Recorded as Instrument # 1833809 Of The Records Of Santa Fe County

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

COUNTY CLERK GERALDINE SALAZAR SANTA FE COUNTY NEW MEXICO

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