

**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:** October 26, 2017

**TO:** Santa Fe County Hearing Officer

**FROM:** Miguel "Mike" Romero, Development Review Specialist Sr. (MP)

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

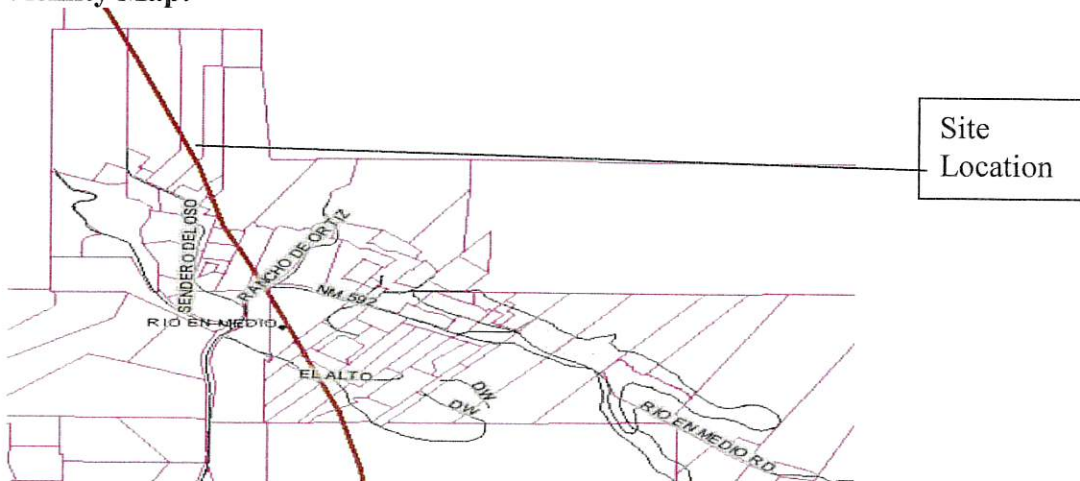
**FILE REF.:** CASE # V17-5280 Pamela Barish Variance

**ISSUE:**

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% 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% for every one hundred (100) linear ft. 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).

**Vicinity Map:**



NBD-1

## SUMMARY:

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 No. 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 (SDA-2 and SDA-3). Therefore, the Applicant is requesting a variance to allow an existing road to exceed the required 9% grade and to have a road width of 10-14 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% for one hundred (100) linear ft. prior to the radius return of the intersection.

The property at 30 Sendero del Oso consists of 6.623 acres that lies within the Rural Residential Zoning District. The property is accessed off S.R. 592 onto Sendero del Oso, which is identified as a private dead end road with a 20 foot right-of-way (ROW) easement that serves 15 lots.

The Applicant's agent states in 2017, the Applicants were advised by Land Use Planning staff that Sendero del Oso would need to be re-engineered and redeveloped to meet the recently adopted standards of the SLDC. Accordingly, the SLDC requires development Applicants served by "nonconforming" private roads to be responsible for improving those roads to County standards prior to the issuance of a building permit, irrespective of the parcel's legal lot status historical development rights, or approved zoning classification. Staff has confirmed that Sendero del Oso has been in existence since 1964.

The Applicant's agent further states, Sendero del Oso is an existing road that serves approximately 15 parcels with 11 of the lots being improved. Sendero del Oso ranges from 10-14 feet and has some sections as wide as 20-ft in width for emergency vehicle turn-outs. The Applicant's agent states that the easement is 20 feet in width and has a road grade that exceeds 9%, with grades ranging from 9-15%.

Staff has conducted a site visit and has confirmed that Sendero del Oso does range between 10-14 feet in width with one section of the road that is approximately 20 feet in width and has a platted 20 foot wide ROW easement indicated in Plat Bk. 622 Pg. 008. Staff has also confirmed that there is one section of Sendero del Oso that is at a 15% grade for 300 linear feet and one section that is at 13% at 61 feet.

The Applicant's agent states as Sendero del Oso connects to S.R. 592 it does so at an angle less than 90 degrees and a grade greater than 5%. Chapter 7, Section 7.11.6.6 states that grades at the approach of intersections shall not exceed five (5%) for one hundred linear feet prior to the radius return of the intersection. Staff has confirmed that within the 100 linear feet at the approach of the intersection of Sendero del Oso and S.R. 592 there is a grade of 7%. Even if the Applicant were to request a minor deviation of 10% it would bring the road grade to only 5.5%. Intersection angles are not an issue and meet code criteria.

The Applicant further states that to meet the SLDC's minimum grade requirements of 9%, an extensive excavation responsibility would be imposed on the Applicant. The Applicant's agent further states that such a project would involve significant re-grading within and outside of the platted 20 foot easement, retaining walls would likely be required on the up-slope side of the road and the project would be prohibitively expensive to engineer, construct and re-vegetate.

**Staff Response:**

Sendero del Oso is required to meet Santa Fe County Rural Road Classification and Design Standards with regard to Cul-de-Sac requirements which would require two driving lanes, each lane must be a minimum of 10 ft. in width, a max grade of 9%, with a 20 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 asking for a variance of the max 9% grade and lane width of two, ten foot driving lanes. The Applicant is not asking for a variance of the minimum ROW, since the ROW meets code criteria. Chapter 7, Section 7.11.11.5 Standards for Residential Development indicates that residential development may reduce the road easement width for off-site and on-site roads to no less than 20 feet. Staff has confirmed that Sendero del Oso has a platted 20 foot ROW easement with road widths of 10-14 feet with two areas exceeding the required 9% grade. Staff has confirmed that within the (100) linear feet at the approach of the intersection of Sendero del Oso and S.R. 592 there is a grade of 7%. Intersection angles are not an issue and meet code criteria.

Per Chapter 4, Section 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 Chapter 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.

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

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

The purpose of the Rural Residential (RUR-R) district is to provide for the development of single-family homes on large lots, either individually or as part of rural subdivisions; to preserve the scenic and rural character of the County; to provide consolidated open space and agriculture lands; and to recognize the desirability of carrying on compatible agriculture operations and home development in areas near the fringes of urban development while

avoiding unreasonable restrictions on farming or ranching operations. Uses that support rural character of the broader area shall be allowed including agriculture productions, small-scale renewable energy production, home-based businesses, bed and breakfasts, agro-tourism, equestrian and boarding facilities, farmers markets and produce stands. Density transfers and clustered development shall be allowed in order to support continued farming and/or ranching activities, conserve open space or protect scenic features and environmentally sensitive areas.

Chapter 7, Section 7.11.1. Purpose and Findings states:

- 7.11.1.1. ensure that the design of the roads conforms to the policies of the SGMP;
- 7.11.1.2. provide for the safety of both vehicular and pedestrian traffic;
- 7.11.1.3. provide for livable residential, mixed-use and commercial environments;
- 7.11.1.4. provide for economy of land use, construction, and maintenance; and
- 7.11.1.5. provide for safe and efficient access to property.

Chapter 7, Section 7.11.6.6. Intersections and roundabouts states:

Grades at the approach of intersections shall not exceed five percent (5%) for one hundred (100) linear feet prior to the radius return of the intersection, excluding vertical curve distance.

Chapter 7, Section 7.11.11.5 Standards for Residential Development.

1. Residential development may reduce the road easement width for off-site and on-site roads to no less than 20 feet if adequate drainage control is provided and may allow the surface to be hardpacked dirt with compaction of 95% of the maximum density.

Chapter 7, Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3). Cul-de-Sac, (Exhibit 4).

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

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

Chapter 4, Section 4.9.7.4, Variance Review criteria states:

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

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

Chapter 4, Section 4.9.7.5 Conditions of approval.

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

The Applicant has addressed the variance criteria for each variance as follows:

#### **Roadway Width**

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

**Applicant's Statement:** Without the variances, the existing roadway will need to be redeveloped with 20-ft travel lanes. The travel lanes currently exist at 20-ft in some sections, but for the most part exist as 14-ft as typical, down to 11-ft in width in certain sections. The redevelopment of the travel lanes to the required size would require significant cut/fill and retaining walls within the 20-ft easement and outside of the 20-ft easement, which may or may not be feasible. Such an endeavor would be a significant undertaking for any property owner along the roadway. It would even be a hardship for a public entity such as Santa Fe County public works to complete given the 20-ft easement size and the multiple property owners along the road.

As noted above, Sendero del Oso serves 11 residential homes. Over its duration, building permits have been issued to properties located along Sendero del Oso. Building permits have been approved without the requirement for supplemental improvements to Sendero del Oso even though the 1981 Land Use Development Code specified 20-ft travel lands as the development standard.

**Staff Response:** The Applicant could request a 10% minor deviation per Chapter 4, Section 4.9.7.6 of the SLDC to the table to allow the roadway to be at a width of 18 feet. However, the Applicant is requesting not to widen the road. Staff has determined that Sendero del Oso would have to go through major construction in widening the road to meet the 20 ft. driving surface or a 10% minor deviation to that standard (18 ft). The redevelopment of Sendero del Oso would include disturbance of manmade and natural 30% slopes in several areas, retaining wall installation in several areas, a major bridge structure to the existing Rio en Medio crossing and possible disturbance of existing underground acequias. Staff recommends that a minimum 14 foot driving surface be required for vehicle and pedestrian safety.

Staff has researched through the AS400 (Permitting database), property information documentation obtained from County Assessor's Office that there have been development permits approved for residential development along Sendero del Oso without the requirements of improving the road, as the majority of Sendero del Oso ranges from 10-14 feet with road grades up to 15%. The permits were approved under the 1996 Land Development Code.

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:** So as to spare the Applicant's the extraordinary expense and uncertainty that would be associated with a major road project variances of the SLDC requirements are sought to allow for the Properties' development as a single family residence, in accordance with use rights previously recognized and legally available to the parcels.

It is argued that the financial burden associated with improvement of Sendero del Oso on a single property owner would be at a minimum, unfair and out of conformance with the accepted standards of proportionality. However, well intended in their drafting intent (to improve public safety and enhance accessibility), the road improvement standards required by the SLDC impose an impractical and disproportionate burden on property owners served by Sendero del Oso. By requiring extensive road improvements as a condition of building permit approval, the SLDC deviates dramatically from County land use permitting precedence.

**Staff Response:** Staff acknowledges the fact that it would be a major expense for the Applicant to bring Sendero del Oso up to SLDC requirements by widening the road to a minimum of 20 ft. or with a 10% minor deviation 18 ft. Staff has determined that disturbance of manmade and natural slopes of 30% or greater with installation of retaining walls would have a major impact on the terrain. The Applicant would also have to endure a major bridge construction at the Rio en Medio and extensive amounts of fill to bring the two areas that exceed 9% grade into code compliance. Staff has confirmed that the majority of Sendero del Oso from S. R. 592 to the Applicant's property doesn't meet the 20 foot driving surface and 9% grade in two areas. Staff acknowledges that Sendero del Oso has been in existence since 1964.

Although the Applicant's agent never provided a Plan and Profile, it is clear that the Applicant would need to use extensive amounts of fill to alter the current road grades to meet the 9% grade. Staff agrees that adding a substantial amount of fill is excessive.

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

**Applicant's Statement:** Given the vast length of nonconforming private and publicly dedicated roads throughout Santa Fe County, the cost of redeveloping the County's larger road network to SLDC standards would likely involve hundreds of millions of dollars – a cost that would be unfairly and disproportionately shouldered by landowners whose properties remain undeveloped.

The offsite road improvement provisions associated with Section 7.1.11 and Section 7.11.6 of the SDLC threaten to significantly diminish the value and marketability of undeveloped, legally platted lots served by roads with development conditions similar to or worse than Sendero del Oso.

Rather than retroactively applying offsite development responsibilities to properties that have been legal lots of record, and whose proposed uses conform to the development allowances of the SDLC, the Applicant requests that no new road improvement requirements be mandated, and that building permits be available to such properties without special condition or limitation.

**Staff Response:** The SLDC has restrictions on slope disturbance along with cut and fill. All development including roads shall be located so as to minimize areas of cut and fill. Widening the road would require excessive grading.

#### **Road Grade**

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

**Applicant's Response:** Without the variances, the existing roadway will need to be redeveloped to a grade of less than 9%. It exists currently at a grade of 9-to-15% and small portions of the road exceed the 9% requirement. The physical conditions in the field demonstrate that the cost of reducing the slope of the road to be a hardship in terms of costs but also the lack of easement to complete the work. Cut and fill improvements would be required outside of the existing 20-ft easement and on private property. Such work to improve the road would require the collective effort of all properties owners along the road or a public entity to accomplish.

As noted above, Sendero del Oso already serves 11 residential homes. Over its duration, building permits have been issued to properties located along Sendero del Oso.

**Staff Response:** Staff has confirmed through a site visit that the existing road ranges between 9-15% grades in two locations. Staff believes that in order to bring Sendero del Oso into compliance there would have to be significant work done to the road by adding large amounts of fill in two locations, which would compromise existing driveways and underground acequias, and cause slope disturbance of 30% slopes, retaining wall construction, and major bridge construction. The previous code, the Santa Fe County Extraterritorial Zoning Ordinance, as amended (EZO), allowed grades of 15% in mountainous areas.

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

**Applicant's Response:** So as to spare the Applicant's the extraordinary expense and uncertainty that would be associated with a major road project variances of the SLDC requirements is sought to allow for the Properties' development as a single family residence, in accordance with use rights previously recognized and legally available to the parcels.

It is argued that the financial burden associated with improvement of Sendero del Oso on a single property owner would be at a minimum, unfair and out of conformance with the accepted standards of proportionality. However, well intended in their drafting intent (to improve public safety and enhance accessibility), the road improvement standards required by the SLDC impose an impractical and disproportionate burden on property owners served by Sendero del Oso. By requiring extensive road improvements as a condition of building permit approval, the SLDC deviates dramatically from County land use permitting precedence.

**Staff Response:** Staff confirms that extensive road work would be required to bring the road to County standards and the burden would be on the Applicant.

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

**Applicant's Statement:** Given the vast length of nonconforming private and publicly dedicated roads throughout Santa Fe County, the cost of redevelopment to the County's larger road network to SLDC standards would likely involve hundreds of millions of dollars – a cost that would be unfairly and disproportionately shouldered by landowners whose properties remain undeveloped.

**Staff Response:** Although an engineer has not been hired to provide a cost estimate for the project, staff believes that a project like this would require substantial amounts of engineering along with substantial amounts of material in order to bring the road into conformance with requirements set forth in the SLDC.



## **Grade at approach to intersection**

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

**Applicant's Response:** This variance requires the grade at the intersections of roads to be 5% or less for 100-ft. The existing condition has a grade of 5% or less for a distance of approximately 50-ft. As the road continues on, the grade increases to 5-9% but is not severe for this first 100-ft of roadway. The existing condition does not pose a significant issue for vehicles or trucks traversing the road. It would be likely nearly impossible to correct this circumstance without significant changes to the grade to the entire length of road. In other words, if this first 100-ft of road is corrected, the entire length of road will require adjustment in order to catch the initial revised grade. The road is currently traversed by all existing land owners that have homes along the road without issue. This is an existing road and has been in this configuration since the 1960's.

**Staff Response:** Chapter 7, Section 7.11.6.6 states, grades at the approach of an intersection shall not exceed 5% for one hundred (100) linear ft. prior to the radius return of the intersection, excluding vertical curve distance. Staff has confirmed that within the 100 linear ft. prior to the radius return of the intersection does so at a grade of 7%. Even with a minor deviation of 10% the grade still would not meet the allowable of 5.5%. However, staff confirms that if the Applicant were required to meet the 5% grade for the (100) linear ft., significant changes would have to be made for a great length of the roadway.

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

**Applicant's Response:** So as to spare the Applicant's the extraordinary expense and uncertainty that would be associated with a major road project, variances of the SLDC requirements are sought to allow for the Properties' development as a single family residence, in accordance with use rights previously recognized and legally available to the parcels.

It is argued that the financial burden associated with improvement to Sendero del Oso on a single property owner would be at a minimum, unfair and out of conformance with the accepted standards of proportionality.

**Staff Response:** Staff confirms that extensive grading and terrain disturbance would be required. This is an existing road and has been in this configuration since the 1960's.

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

**Applicant's Statement:** Given the vast length of nonconforming private and publicly dedicated roads throughout Santa Fe County, the cost of redevelopment to the County's larger road network to SLDC standards would likely involve hundreds of millions of dollars – a cost that would be unfairly and disproportionately shouldered by landowners whose properties remain undeveloped.

**Staff Response:** Although an engineer has not been hired to provide a cost estimate for the project. Staff believes that a project like this would require substantial amounts of engineering along with substantial amounts of material in order to bring the road into requirements set forth in the SLDC. This is an existing road that has been in this configuration since the 1960's.

As required by the SLDC, the Applicants presented the Application to the Technical Advisory Committee (TAC) on August 3, 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 August 25, 2017.

#### **RECOMMENDATION:**

**The Applicant did provide responses to the variance review criteria. Staff recommends approval of a variance from Ordinance No. 2016-9 the Sustainable Land Development Code (SLDC) of Chapter 7, Table 7-13, Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow an existing roadway to exceed 9% grade with a maximum grade of 15%.**

**Staff recommends approval from Ordinance No. 2016-9 the Sustainable Land Development Code (SLDC) Chapter 7, Section 7.11.6.6 to allow a grade at the approach of an intersection to exceed 5% for one hundred (100) linear ft. prior to the radius return of the intersection.**

**If the Applicant were to adhere to the 9% road grade, it would require the Applicant to add substantial amounts of fill, which is more intrusive and does not support the spirit of the SLDC. Staff supports the minimal easing to allow the grade at the approach of an intersection to exceed the required 5% grade for every (100) linear feet prior to the radius return of the**

intersection. The current grade is at 7% and with a minor deviation would allow the road grade to be 5.5%.

Staff recommends that a minimum 14 foot driving surface be required for vehicle and pedestrian safety.

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.

**EXHIBITS:**

1. Applicants Request
2. Recorded Survey Plat
3. Aerial of Site and Surrounding Area/Site Photos
4. Chapter 7, Table 7-13 Rural Road Classification and Design Standards (SDA-2 & SDA-3)
5. Noticing

## **Pamela Barish Variance Requests – Updated Information for Variance Criteria 30 Sendero del Oso**

### **Project Location and Abutting Properties**

The subject site is approximately 6.623-acres in size and is located off of County Road 592, in Section 32, Township 19N, Range 10E, near Rio en Medio, north of Tesuque. The subject site is abutted by residential lots that range in size from 10-acre to the west, 6.4-acres to the east, 1.25-acres to the south, and Nambe Pueblo lands directly to the north. Pamela Barish has owned the subject site for 11-years. The subject road is a private road and has been extant in some form of its present state for many years. The subject area is zoned RUR-R zoning, which permit 1 du/10-acres. The applicant is attempting to sell the parcel for a person to build a home. The variance is necessary in order for the person to submit for a building permit.

### **Variance Context**

This variance application is presented for consideration by Santa Fe County in advance of any building permit application by the owner or their representatives. Accordingly, this application serves as a pre-emptive action: One that will ensure that the property can be developed in accordance with their designated zoning without risk of incurring costly and unlikely improvements to Sendero del Oso.

In May of 2017, the applicants were advised by the Land Use Planning staff that Sendero del Oso would need to be re-engineered and redeveloped to meet the recently adopted standards of the SLDC. Accordingly, the SLDC requires development applicants served by "nonconforming" private roads to be responsible for improving those roads to County standards prior to the issuance of a building permit, irrespective of the parcel's legal lot status historical development rights, or approved zoning classification.

### **Sendero del Oso**

Sendero del Oso is an existing road that serves approximately 15-parcels and an estimate of 11 lots are improved properties (the lots range in size from 1.25-acres to greater than 10-acres. Sendero del Oso ranges in width from 10-14-ft and has certain portions as wide as 20-ft in width for emergency vehicle turn-outs. The easement is 20-ft in width. It features a road grade that exceeds 9% in one location. As it connects to County Road 592, it does so at an angle less than 90-degrees and a grade greater than 5%, and its right of way is less than 38-ft. Its length to the subject site is approximately 1400-lf.

Although a detailed slope analysis has not been made, it is estimated that Sendero del Oso may involve slopes with 12-15% grades. To meet the SLCD's minimum grade requirements of 9%, an extensive excavation responsibility would be imposed on the Applicant. Such a project would involve significant re-grading within and outside of the platted 20-ft. easement. Retaining walls would likely be required on the up-slope side of the road. Such a project would be prohibitively expensive to engineer, construct, and re-vegetate which is a significant burden of responsibility for a single land owner.



NBD-12

**Pamela Barish Variance Requests  
30 Sendero del Oso**

Chapter 7.11 Table 7-13 Rural Road Classification and Design Standards (SDA-2 and SDA-3)

**Variance #1. To allow a roadway to be less than 20-ft in width;**

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

Without the variances, the existing roadway will need to be redeveloped with 20-ft travel lanes. The travel lanes currently exist at 20-ft in some sections, but for the most part exist as 14-ft as typical, down to 11-ft in width in certain sections. The redevelopment of the travel lanes to the required size would require significant cut/fill and retaining walls within the 20-ft easement and outside of the 20-ft easement, which may or may not be feasible. Such an endeavor would be a significant undertaking for any property owner along the roadway. It would even be a hardship for a public entity such as Santa Fe County public works to complete given the 20-ft easement size and the multiple property owners along the road.

As noted above, Sendero del Oso serves 11 residential homes. Over its duration, building permits have been issued to properties located along Sendero del Oso. Building permits have been approved without the requirement for supplemental improvements to Sendero del Oso even though the 1981 Land Use Development Code specified 20-ft travel lands as the development standard.

**2. Where, owing to special conditions, a literal enforcement of the SLDC will result in unnecessary hardship to the applicant;**

So as to spare the Applicant's the extraordinary expense and uncertainty that would be associated with a major road project variances of the SLDC requirements is sought to allow for the Properties' development as a single family residence, in accordance with use rights previously recognized and legally available to the parcels.

It is argued that the financial burden associated with improvement Sendero del Oso on a single property owner would be at a minimum, unfair and out of conformance with the accepted standards of proportionality. However, well intended in their drafting intent (to improve public safety and enhance accessibility), the road improvement standards required by the SLDC impose an impractical and disproportionate burden on property owners served by Sendero del Oso. By requiring extensive road improvements as a condition of building permit approval, the SLDC deviates dramatically from County land use permitting precedence.

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

Given the vast length of nonconforming private and publicity dedicated roads throughout Santa Fe County, the cost of redevelopment the County's larger road network to SLDC standards would likely involve hundreds of millions of dollars – a cost that would be

NBD-13

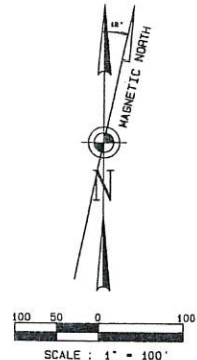
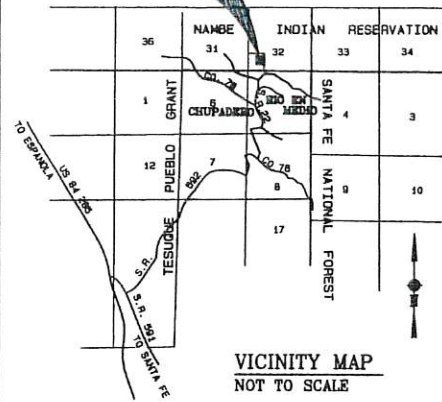
unfairly and disproportionately shouldered by landowners whose properties remain undeveloped.

The offsite road improvement provisions associated with Section 7.1.11 and Section 7.11.6 of the SDLC threaten to significantly diminish the value and marketability of undeveloped, legally platted lots served by roads with development conditions similar to or worse than Sendero del Oso.

Rather than retroactively apply offsite development responsibilities to properties that have been legal lots of record, and whose proposed uses conform to the development allowances of the SDLC, the Applicant requests that no new road improvements requirements be mandated, and that building permits be available to such properties without special condition or limitation.



# SITE



## LOT LINE ADJUSTMENT FOR GEOFFREY S. BARISH BETWEEN TRACTS C-1, C-2, B-3-B-1 AND TRACT B-1-2 VICINITY OF RIO EN MEDIO SANTA FE COUNTY, NEW MEXICO

CERTAIN TRACTS OF LAND LYING AND BEING SITUATE WITHIN SW 1/4 SECTION 32, T.19N., R.10E., N.M.P.M. IN THE VICINITY OF THE VILLAGE OF RIO EN MEDIO, SANTA FE COUNTY, NEW MEXICO.

PURPOSE: THIS PLAT AMENDS EXISTING TRACT BOUNDARIES.

### NOTES & REFERENCE DOCUMENTS

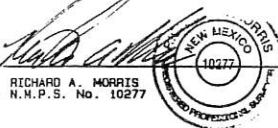
- 1) BASIS OF BEARINGS IS TAKEN FROM A PLAT ENTITLED "LOT LINE ADJUSTMENT BETWEEN TRACT C-1 & TRACT D-1-A AND EASEMENT VACATION FOR GEOFFREY S. BARISH AND GILBERT AD EILEEN HITCHCOCK" BY RICHARD A. MORRIS N.M.P.S. NO. 10277, FILED IN THE SANTA FE COUNTY CLERK'S OFFICE IN PLAT BOOK 416 PAGE 032.
- 2) REFER TO A PLAT ENTITLED "LOT LINE ADJUSTMENT FOR GEOFFREY S. BARISH AND MAX JIMENEZ" BY RICHARD A. MORRIS N.M.P.S. NO. 10277, FILED IN THE SANTA FE COUNTY CLERK'S OFFICE IN PLAT BOOK 385 PAGE 044.
- 3) REFER TO PLAT ENTITLED "LOT LINE ADJUSTMENT-LOT SPLIT PLAT PREPARED FOR HITCHCOCK & DANIEL OF TRACTS D-1 & B-3-B-1 BY RICHARD E. SMITH P.L.S. NO. 5837 AND FILED IN THE SANTA FE COUNTY CLERK'S OFFICE ON JUNE 14, 1994, IN PLAT BOOK 276 PAGE 049.
- 4) REFER TO PLAT ENTITLED "LOT LINE ADJUSTMENT FOR GILBERT & EILEEN HITCHCOCK OF TRACTS D & A-1 WITHIN SECTION 32, T.19N., R.10E., N.M.P.M. NEAR RIO EN MEDIO" BY RICHARD E. SMITH P.L.S. NO. 5837 AND FILED IN THE SANTA FE COUNTY CLERK'S OFFICE ON JUNE 29, 1995, IN PLAT BOOK 248 PAGE 025.
- 5) REFER TO QUITCLAIM DEED FROM ELADIO JIMENEZ, MAX JIMENEZ, JUANITA MARTINEZ TO MAX JIMENEZ, RECORDED WITH THE SANTA FE COUNTY CLERK ON MAR. 23, 1983 IN BOOK 459 PAGE 056-058.
- 6) REFER TO WARRANTY DEED FROM EULOGIO JOE JIMENEZ AND MICHAEL ANTHONY JIMENEZ AND JANE MARTINEZ TO GEOFFREY S. BARISH, RECORDED WITH THE SANTA FE COUNTY CLERK ON JUNE 5, 1992 IN BOOK 823 PAGE 179.
- 7) IMPROVEMENTS SHOWN ARE CURRENT AS OF DATE OF FIELD SURVEY 3/19/06.
- 8) REFER TO PLAT ENTITLED "SURVEY PLAT FOR ELADIO, MAX, JANE, & BARBARA JIMENEZ" FILED IN SANTA FE COUNTY CLERK'S OFFICE IN PLAT BOOK 117 PAGE 4.
- 9) THERE IS A 25' NO BUILD SETBACK FROM EDGE OF DRAINAGE EASEMENTS.

### LEGEND

- DENOTES FOUND POINT #4 FOR W/ CAP DANSON L57014 (UNLESS OTHERWISE NOTED)
- DENOTES SET POINT (5/8" REBAR WITH ALUMINUM CAP STAMPED P.S. 10277)
- DENOTES USGLO BRASS CAP FOUND
- DENOTES EXISTING FENCE
- DENOTES STRUCTURE

### SURVEYORS CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAT AND THE NOTES SHOWN HEREON WERE PREPARED UNDER MY DIRECTION FROM A SURVEY PERFORMED IN THE FIELD FOR THE PURPOSE OF ADJUSTING THE LOT LINE SHOWN HEREON AS INSTRUCTED BY THE OWNER OF SAID TRACTS. TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF THIS PLAT MEETS OR EXCEEDS THE REQUIREMENTS OF THE "MINIMUM STANDARDS" FOR LAND SURVEYING IN NEW MEXICO.



INDEXING INFORMATION FOR COUNTY CLERK		
TOWNSHIP	RANGE	LOCATION
19 NORTH	10 EAST	RIO EN MEDIO

**MORRIS**  
surveying engineering

EXHIBIT 2

NAME: BARISH - RIO EN MEDIO PROJECT No. 55032

### SANTA FE COUNTY APPROVAL, NOTES AND CONDITIONS

SANTA FE COUNTY LAND USE ADMINISTRATOR  
DATE: 4/18/06

06-3056  
DEVELOPMENT PERMIT NUMBER

SANTA FE COUNTY RURAL ADDRESSING  
DATE: 4-18-06

ACCORDING TO FEMA FLOOD INSURANCE RATE MAP NO. 350069 0100B DATED NOVEMBER 4, 1988 THE LANDS SHOWN HEREON LIE WITHIN THE NAMBE INDIAN RESERVATION (FLOOD INFORMATION NOT INCLUDED THIS AREA)

PURSUANT TO THE SANTA FE COUNTY LAND DEVELOPMENT CODE, THE SOILS RATING ON THIS PROPERTY IS DESIGNATED AS BEING MODERATE-SEVERE REGARDING LIMITATIONS TO SEPTIC TANKS. POTENTIAL BUYERS/SELLERS OF THIS PROPERTY SHOULD INQUIRE WITH THE NEW MEXICO ENVIRONMENT DEPARTMENT WHETHER THESE SOILS ARE SUITABLE FOR A CONVENTIONAL SEPTIC SYSTEM OR IF AN ALTERNATIVE SYSTEM IS REQUIRED.

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.

MAINTENANCE OF PRIVATE ROADS AND EASEMENTS IS THE RESPONSIBILITY OF THE LAND OWNER/USER UNLESS CURRENTLY MAINTAINED BY THE SANTA FE COUNTY PUBLIC WORKS DEPARTMENT.

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

THE PARCELS PLATTED HEREON ARE SUBJECT TO ARTICLE VII, SECTION 3 OF THE SANTA FE COUNTY TERRAIN MANAGEMENT REGULATIONS AT THE TIME OF ANY DEVELOPMENT.

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

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

THESE TRACTS ARE SUBJECT TO THE REQUIREMENTS OF THE FIRE MARSHAL AFFIDAVIT FILED IN THE OFFICE OF THE COUNTY CLERK AND RECORDED AS INSTRUMENT NO. 1430658

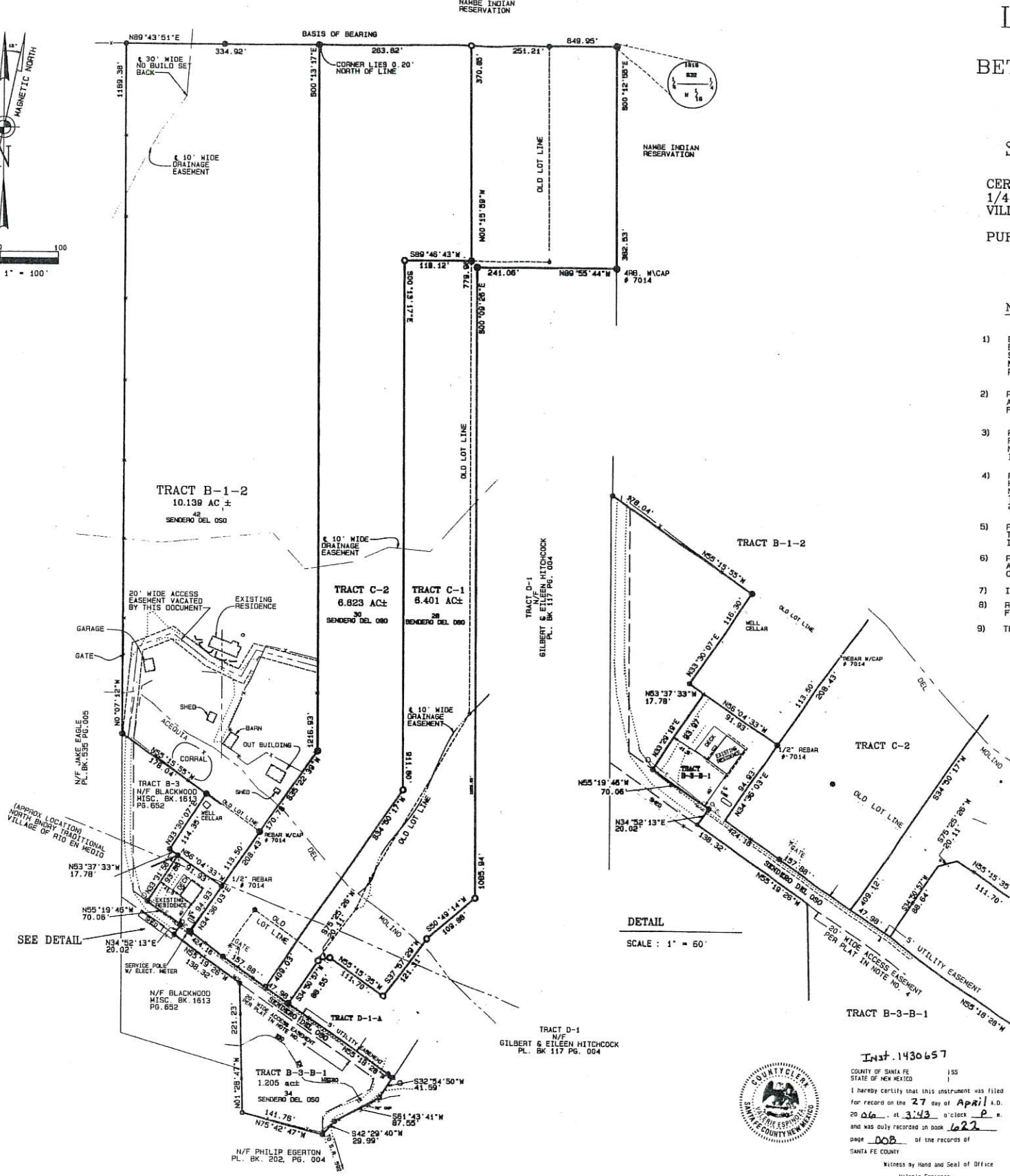
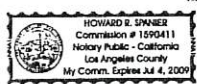
### SPECIAL BUILDING PERMIT CONDITIONS

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

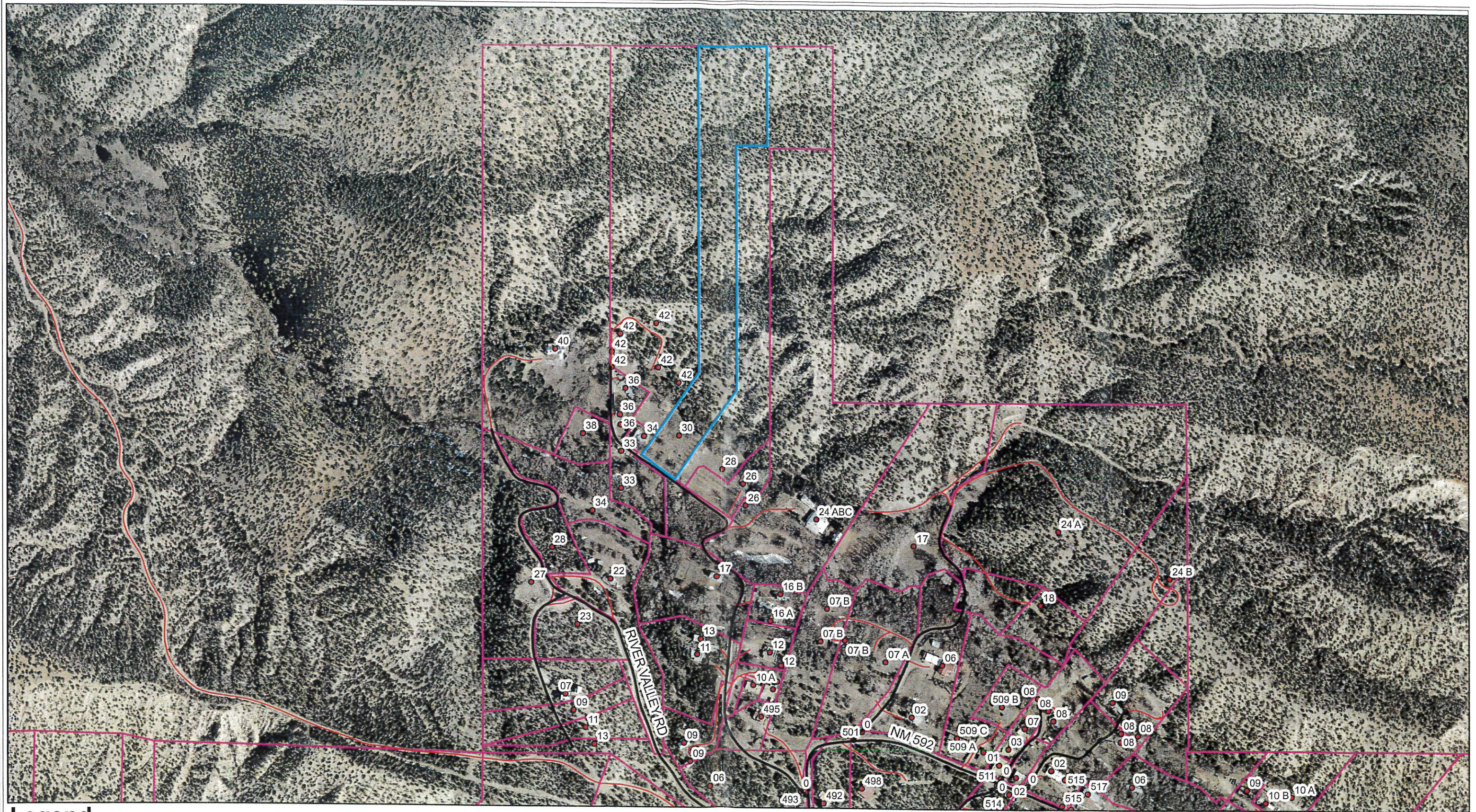
### OWNERS CONSENT

THE UNDERSIGNED OWNER(S) OF TRACTS B-1-2, B-3-B-1, C-1 AND C-2 DO HEREBY CONSENT TO THE PLATTING OF LANDS BY ADJUSTMENT OF LOT LINES AS SHOWN HEREON. THE 20' WIDE ACCESS EASEMENT THROUGH TRACT B-1-2 IS HEREBY VACATED. THIS LOT LINE ADJUSTMENT IS BEING MADE WITH THE UNDERSIGNED OWNERS FREE CONSENT AND IS IN ACCORDANCE WITH THEIR DESIRES AND WISHES. THESE LANDS LIE WITHIN THE PLANNING AND PLATTING JURISDICTION OF THE COUNTY OF SANTA FE.

GEOFFREY S. BARISH  
OWNER TRACT B-1-2, B-3-B-1, C-1 AND C-2  
STATE OF CALIFORNIA } SS  
COUNTY OF LOS ANGELES }  
THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME  
THIS 15th DAY OF APRIL 2006 BY GEOFFREY S. BARISH.  
MY COMMISSION EXPIRES: 7/14/09  
NOTARY PUBLIC

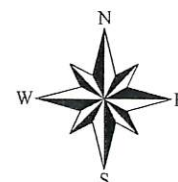
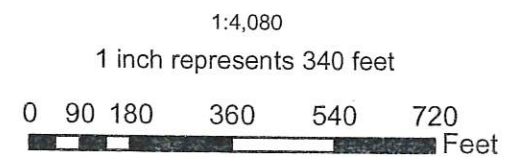




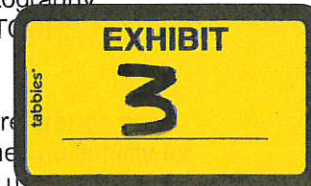


# Legend

- ROADS
- DRIVEWAYS
- Parcels



2015 Orthophotography  
2 FOOT CONT

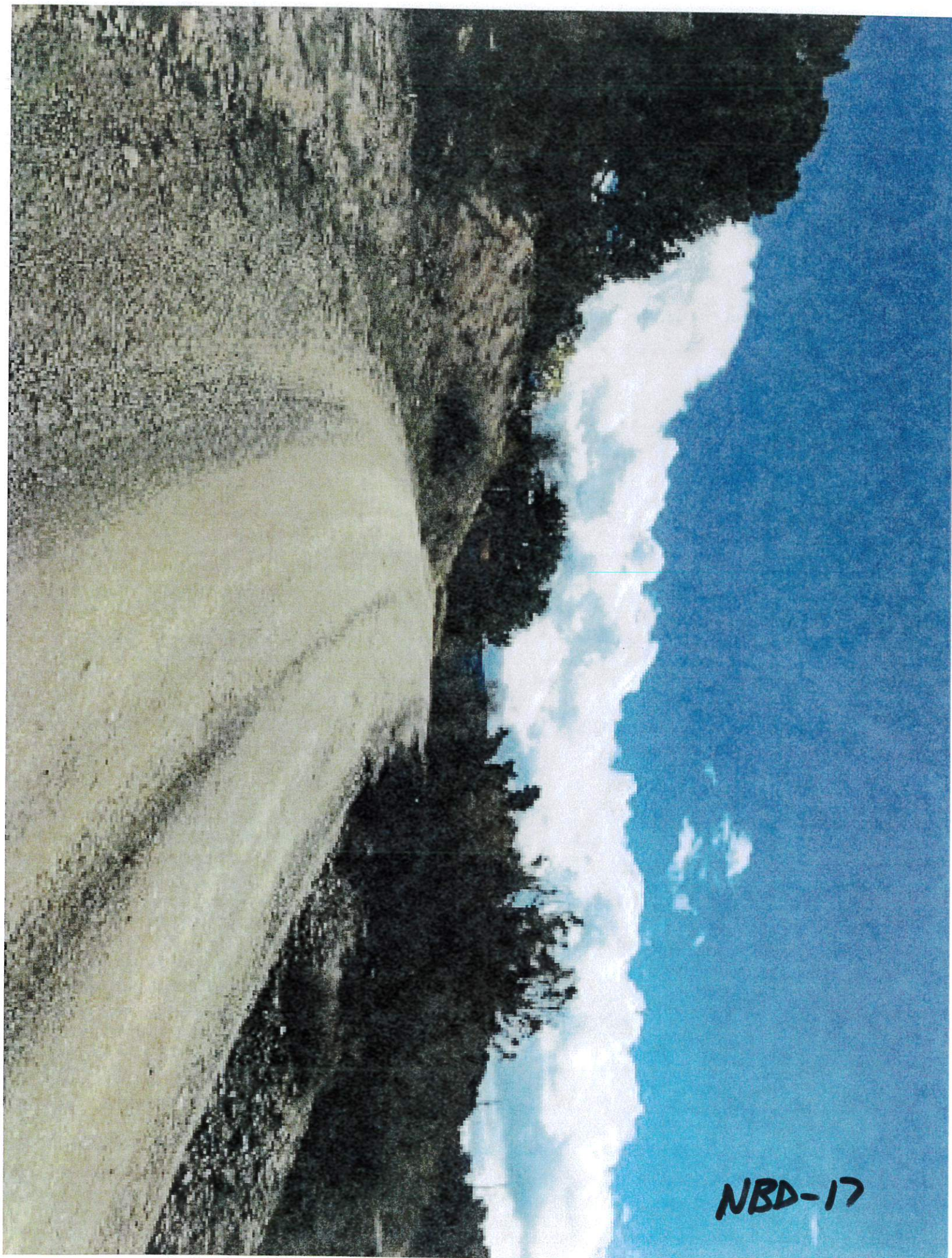


This information is for re  
Santa Fe County assume  
errors associated with the use of these data.  
User are solely responsible for  
confirming data accuracy.



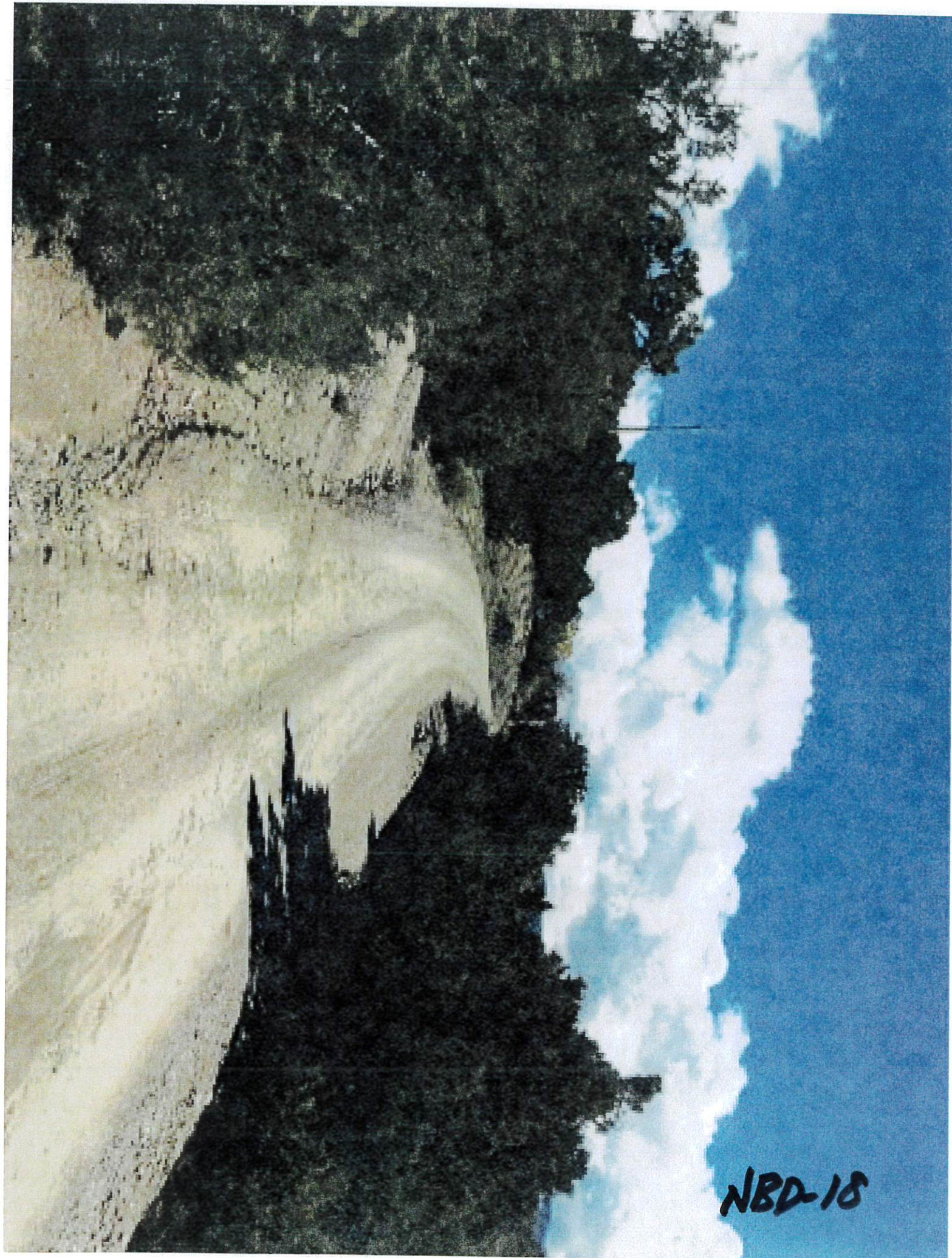
October 4, 2017





NBD-17





NBD-18





NBD-19













NBD-22



**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.
<b>Major arterial or highway</b>	5000 +	2-4	12	n/a	Two 5 ft. on-road	150	Level: 70 Rolling: 70 Mount.: 50-60	5%	6"	6"	8%
<b>Minor arterial</b>	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%
<b>Collector</b>	401-1999	2	11	n/a	n/a	80	Level: 40-60 Rolling: 20-50 Mount.: 20-40	8%	6"	4"	8%
<b>Local</b>	0-400	2	10	n/a	n/a	50	Level: 30-50 Rolling: 20-40 Mount.: 20-30	9%	3"	n/a	8%
<b>Cul-de-Sac</b>	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
<b>Residential Driveway</b>	n/a	1	14	n/a	n/a	20	n/a	10 %	n/a	n/a	n/a

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

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

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

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

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



# SANTA FE NEW MEXICAN

LEGAL #83312

**CASE # V 17-5280**  
**Pamela Barish Var-**  
**iance**

## **NOTICE OF PUBLIC HEARING**

Notice is hereby given that a public hearing will be held to consider a request by Pamela Barish, Applicant, Santa Fe Planning Group, 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% grade, to allow a roadway to be less than 20 ft. in width and Section 7.11.6.6 to allow a grade at the approach of an intersection to exceed 5% grade for every one hundred (100) linear ft. prior to the radius return of the intersection. The property is located within the Rural Residential Zoning District (RUR-R) at 30 Sendero del Oso, within Section 32, Township 19 North, Range 10 East (Commission District 1). This case will go before the Santa Fe County Hearing Officer on October 26, 2017 and on December 21, 2017 before the Santa Fe County Planning Commission.

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 3:00 p.m. on a petition to the Santa Fe County Hearing Officer and on the 21st day of December 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

## Ad Proof / Counter Confirmation / Invoice

Account Number

1811

Ad Order Number

0000210527

SF PLANNING GROUP INC.



NBD-24



to: the Hearing  
Officer/Planning  
Commission taking  
action.

All comments, ques-  
tions and objections  
to the proposal may  
be submitted to the  
County Land Use Ad-  
ministrator in writing  
to P.O. Box 276, Santa  
Fe, New Mexico  
87504-0276; or pre-  
sented in person at  
the hearing.

Published in the San-  
ta Fe New Mexican on  
October 11, 2017.

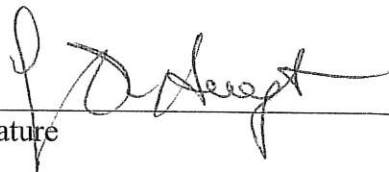
NBD-ZS

## CERTIFICATION OF POSTING

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

Case # VM-5280 was posted for 15 days on the property beginning

The 11<sup>th</sup> 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.

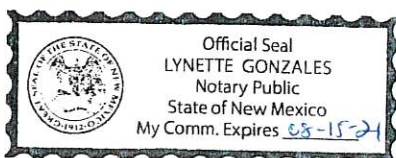
STATE OF NEW MEXICO    }  
                                     }  
COUNTY OF SANTA FE    }

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of  
October, 2017, By Cynthia Hoelt.

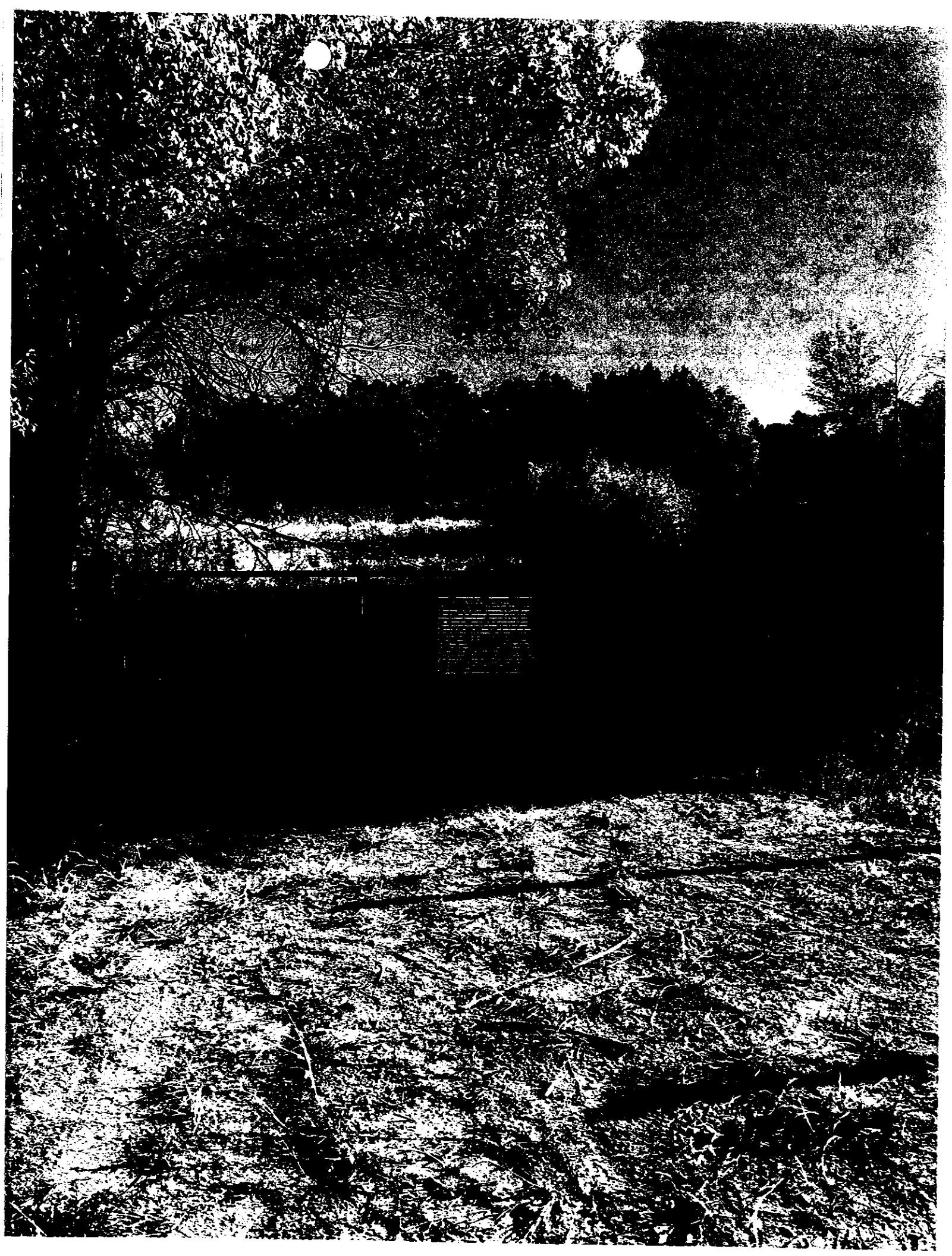
  
Notary Public

My Commission Expires:

08-15-2021



NBD-26



**PUBLIC NOTICE**

[illegible]

MORMORUNNI, CRISTINA L &  
CASEY SHAW  
42 SENDERO DEL OSO  
SANTA FE, NM 87506

BLACKWOOD, DANIEL & JOHNNY  
LYNN YOUNG TR  
1682 TIERRA DEL RIO  
ALBUQUERQUE, NM 87107

BEE, ROSS BARNHART  
5223 B MT. BONNELL RD  
AUSTIN, TX 78731-4605

THE R HOWARD SEARS FAMILY  
TRUST  
22 RIVER VALLEY RD  
SANTA FE, NM 87506-8809

SEARS, JEFF & HELENA  
2715 HYDE ST  
SAN FRANCISCO, CA 94109

STRONG, LARS D  
157 NINE MILE ROAD  
SANTA FE, NM 87501

CULVER, JOHN KENNICOTT &  
LESLEY MEREDITH  
1930 EDGCUMBE RD  
SAINT PAUL, MN 55116

THE BELLRICHARD RITCHIE  
TRUST  
PO BOX 112  
TESUQUE, NM 87574

FORCE, BRYAN & FRANCES A  
COLE  
34 SENDERO DEL OSO  
SANTA FE, NM 87506

EDGERTON, PHILIP B & GAYLE  
(TRUSTEES)  
1814 SUN MOUNTAIN DR  
SANTA FE, NM 87505

NAMBE PUEBLO DEVELOPMENT  
CORPORATION  
33 B ARROYO CUYAMUNGUE  
SANTA FE, NM 87506

NBD-29