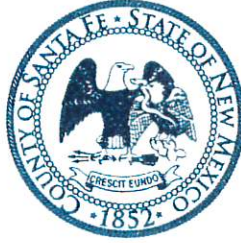


Henry P. Roybal
Commissioner, District 1

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: July 27, 2017

TO: SLDC Hearing Officer

FROM: John Lovato, Development Review Specialist Sr. *JL*

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

FILE REF.: CASE # V 17-5160 Prabhu Khalsa & Regina Spamer Variance

ISSUE:

Prabhu Khalsa and Regina Spamer, Applicant's, 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' on a ridgetop, and to allow a two story residence on a ridgetop, and a variance of Chapter 7.17.9.2.4 to allow a driveway to disturb 30% 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 North, Range 8 East, (Commission District 1)

Vicinity Map:



Site Location

SUMMARY:

The Applicants are the owner of the property as evidenced by warranty deed as recorded in the records of the Santa Fe County Clerk on September 7, 2006, as recorded Instrument # 1449846. The Applicants are pursuing the request for a variance to allow a proposed 2,304 square foot residence to have a 22' pitched roof on a ridgetop, to allow a second floor in the residence, and to disturb 3,065 square feet of 30% slope for construction of their driveway on their 0.92 acre parcel.

The (SLDC), Chapter 7, Section 7.17.9.3.2, states, "Structures on ridges, ridgelines and shoulders shall not exceed fourteen (14') feet in height and shall be limited to one story." This Section further states, "a structure on a ridge or ridgeline that is a one story pitched roof shall not exceed eighteen (18) feet in height so long as it is screened from view from an arterial or major arterial road."

The property is currently vacant. The proposed residence consists of two stories. The first level contains a kitchen, bedroom, laundry room, and living room /dining room. The second level consists of a master bedroom, master bathroom, two bedrooms, a study room, and bathroom. The structure is 24X48 on both levels for a combined total of 2,304 square feet.

The Applicants are also requesting to disturb 30% slope to access their buildable area with a driveway which is 15'-20' in width and 200' in length. Chapter 7.17.9.2.4, states, "Utilities, drainage structures, slope retention structures, and access roads and driveways may be located on a natural slope in excess of thirty percent (30%) so long as they disturb no more than three separate areas not exceeding 1,000 square feet each." The first disturbance of 30% slope consists of 70 square feet and is consistent with the SLDC. The second occurrence is 2,378 square feet of 30% slope and exceeds the extent of allowable slope disturbance. The third disturbance is 617 square feet and is consistent with the SLDC. The combined total disturbance of 30% slope is 3,065 square feet.

The Applicants state, "We are requesting these variances for permission to build a two story home. Before we were made aware that we would require a variance, we looked at the homes of our immediate neighbors which are both two story homes as well and we designed a two story home for ourselves. We then paid for plans to be drawn up for the County to acquire a building permit. As we are already invested in the plans for the home, and there are already two other homes on the same hillside that are two story." In addition we would like to request a variance to disturb 30% slope to access the buildable area."

Height/ Two Story Variance

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

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

Applicant's Statement: Due to there being two other homes on either side of our property reaching above 24' feet in height, the height of our building will not be contrary to public interest and two-story design will not be contrary to public interest, but in line with the existing

neighborhood features. Additionally, as we are a private property, surrounded by other private properties, the interest of the public seems minimal.

Staff Response: Although there are existing 24' two story homes in the vicinity, those homes are not on a ridgetop and do not have to meet height limitations of 14' flat roof or 18' pitched roof with a single story design. This property is located on a ridgetop and is limited by the SLDC to one story and is subject to Chapter 7, Section 7.17.9.3.2, which restricts structures on ridges, ridgelines and shoulders to fourteen (14') in height and limits them to be one story. This section does allow for a structure on a ridge or ridgeline that is a one story pitched roof to be no more than eighteen (18) feet in height, so long as it is screened from view from an arterial or major arterial road.

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

Applicant's Statement: The "extraordinary and exceptional situations" as related to this property is that it runs long from the North to the South, but somewhat narrow from East to West. In order to build the house set back from the driveway and neighbor's property the home's South facing wall that extends from East to West cannot be much longer than our current design. As we have implemented a passive solar design with all bedrooms having a South facing window, we will need our current design which reaches 22 feet in height. As we have already invested in the design and paid for plans, and we cannot implement an effective passive solar design separate from what we have, denying this variance would "result in peculiar and exceptional practical difficulties" for us. It would also result in "exceptional and undue hardship" on us as we are expecting our first baby and aren't ready to redesign the home, without a passive design, and pay for more plans

Staff Response: The fact that the Applicants designed a two story home is not grounds for granting a variance. The site contains a buildable area of 4,000 square feet in which a one story structure can be placed on. The applicant can build an 18' pitched roof with a south facing façade to allow for southern exposure which will allow for sunlight to enter the building. The Applicant can place skylights along the southern pitch and keep the structure at 18' to allow additional southern sun exposure to enter the residence. The structure can allow for a 14' flat roof and remain one level while other rooms that don't have sunlight entering can have an 18' clear story celestial pitched roof to allow for windows and sun light for an effective passive solar design. The site contains ample room for a one story house of the same size.

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

Applicant's Statement: Granting this variance, allowing us to design our home consistent with the design of the neighbors and neighborhood, would allow for "substantial justice" to be done. Conversely, if the variance was denied, it would be unjust as both neighbors have already reached a height of 24' feet or more, which is greater than what we are requesting. In keeping with the "spirit of the SLDC," particularly the "sustainable" part, allowing our variance would allow our passive solar and sustainable design

Staff Response: The surrounding residences are not located on a ridgetop and are not restricted to the same requirements as this property. The proposed structure is subject to current standards and shall not exceed 14' in height for a flat roof residence or 18' pitched as required by Ordinance

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

505-995-2740 www.santafecountynm.gov

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2016-9, the SLDC. This residence can be designed differently with a one story design and remain consistent with the SLDC. Granting this variance creates a possible precedent for surrounding properties where development is proposed on a ridgetop in this area as well as other communities in Santa Fe County.

Disturbance of 30% Slope

The Applicants response to Chapter 4.9.7.4 Review Criteria is as follows:

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

Applicant's Statement: The public interest, as it relates to private property in residential neighborhoods, is best served when private property owners are allowed to sustainably and safely build reasonable family homes on their own properties. As we need a driveway to reach our building site, and our current plan, which requires the slope disturbance, is the only reasonable option, we need this variance for the above mentioned interest to be served.

Staff Response: Staff has conducted an inspection on the property and concurs with the Applicant's. There is no other access to the buildable area on the property without disturbing 30% slope while also being able to meet grade requirements.

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

Applicant's Statement: In the case of our needed driveway, "the strict application of the code would result in peculiar and exceptional practical difficulties," due to the natural landscape and surrounding properties. Due to the fact that the North and West sides of the property are flanked by private property without any easements, and the fact that the South side of the property is well above the road, our only option is to build our driveway on the East side of the property. It just so happens that the East side of the property naturally has a slope greater than what is usually allowed to be disturbed. We cannot build our driveway without disturbing this slope, and not allowing our driveway would mean we could not build on our property, and would almost render the property worthless. This would certainly "result in peculiar and exceptional practical difficulties" AND "exceptional and undue hardship on the owner (us)."

Staff Response: Staff has reviewed the Applicants Grading and Drainage Plan and has determined that there is no other possible way for the Applicant's to meet the requirements of the SLDC. Terrain creates a hardship to the Applicants and the selected route for the driveway is the only access to the buildable area of the property.

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

Applicants' Statement: As mentioned above, in order for "substantial justice" to be done, we would be given the chance to build our driveway and home. As we invested in professional plans from an engineer, and we have a sustainably designed driveway and home, this variance would easily be in keeping with "the spirit of the SLDC."

Staff Response: There is no other access to the property and disturbance of slope is a necessity to access buildable area.

The applicable requirements under the SLDC, which govern this Application are the following:

Chapter 7.17.9.2.4 Standards, states, "Utilities, drainage structures, slope retention structures, and access roads and driveways may be located on a natural slope in excess of thirty percent (30) so long as they disturb no more than three separate areas not exceeding 1,000 square feet each." (Exhibit 4)

Chapter 7.17.9.3.2, states, Height states, "Structures on ridges, ridgelines, and shoulders shall not exceed (14) feet in height and shall be limited to one story. However, a structure on a ridge or ridgeline that is a one story pitched roof structure shall not exceed eighteen (18) feet in height so long as the structure is screened from view from an arterial or major arterial road." (Exhibit 5)

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 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 6)

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. (Exhibit 7)

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.

Chapter 4, Section 4.9.7.5 Variance Conditions of approval. (Exhibit 7)

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.

As required by the SLDC, the Applicants presented the Application to the Technical Advisory Committee (TAC) on April 6, 2017, at the regular scheduled monthly meeting, which satisfied the requirements set forth in Chapter 4, TAC Meeting Table 4-1.

Notice requirements were met as per Chapter 4, Section 4.6.3., General Notice of Application Requiring a Public Hearing, of the SLDC. In advance of a hearing on the Application, the Applicants provided an affidavit of posting of notice of the hearing, confirming that public notice posting regarding the Application was made for fifteen days on the property, beginning on July 2, 2017. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on July 7, 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 8)

This Application was first submitted on May 30, 2017

RECOMMENDATION:

Height:

Staff recommends denial of the requested variance. The Applicant's 22' residence exceeds height requirements of the SLDC which allows a 14' one story flat roofed residence or 18' pitched roof one story residence. The Applicant can create an alternative design so the structure meets height requirements.

Two Story: Staff recommends denial of the Applicant's request. Structures on ridges, ridgelines, and shoulders shall be limited to one story structures. The Applicants proposal does not meet requirements of the SLDC; surrounding properties are not located on ridgetops and there is space for the Applicant to build the same size house as a single story.

Disturbances: 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 a 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. The inability to build on the property due to the requirements in Chapter 7, Section 7.17.9.2.4, 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 terrain on this property consists of steep slopes a minimal building location. 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. 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 order. The Santa Fe County Planning Commission (SFCPC) will be holding a public hearing on this matter on September 21, 2017.

EXHIBITS:

1. Applicants Request
2. Proposed plans
3. Aerial Photo of Site
4. Chapter 7, Section 7.17.9.2.4
5. Chapter 7, Section 7.17.9.3.2
6. Chapter 4, Section 4.9.7.4, Variance review criteria
7. Chapter 4, Section 4.9.7.5, Conditions of approval
8. Notice

John F. Lovato

From: Prabhu Singh Khalsa <prabhukhalsa@gmail.com>
Sent: Thursday, June 29, 2017 3:56 PM
To: John F. Lovato
Subject: Variance for 1 Anand Nivas Way

Thursday, June 29, 2017

To whom it may concern,

In regards to the property at 1 Anand Nivas Way, Espanola, NM 87532 (Santa Fe County), we are writing to request two variances in order to build our driveway and home. Before we were made aware that we would require two variances, we looked at the homes of our immediate neighbors on the same hillside which are both two-story homes and we designed a two-story home for ourselves. We then paid for the plans to be drawn up for the county to acquire a building permit. After this we discovered that despite the existing neighbor's homes we would require a variance for our house. The county also informed us that we would require a variance for the driveway, due to the nature of the land. Below we have addressed the criteria for each variance.

Thank you for your consideration in this matter

Sincerely,
Prabhu S. Khalsa
Regina M. Spamer

Height:

1. Due to there being two other homes on either side of our property reaching above 24' feet in height, the height of our building will not be contrary to public interest, but inline with the existing neighborhood features.
2. The "extraordinary and exceptional situations" as related to this property is that it runs long from the North to the South, but somewhat narrow from East to West. In order to build the house set back from the driveway and neighbor's property the home's South facing wall that extends from East to West cannot be much longer than our current design. As we have implemented a passive solar design with all bedrooms having a South facing window, we will need our current design which reaches 22 feet in height. As we have already invested in the design and paid for plans, and we cannot implement an effective passive solar design separate from what we have, denying this variance would "result in peculiar and exceptional practical difficulties" for us. It would also result in "exceptional and undue hardship" on us as we are expecting our first baby and aren't ready to redesign the home, without a passive design, and pay for more plans.
3. Granting this variance, allowing us to design our home consistent with the design of the neighbors and neighborhood, would allow for "substantial justice" to be done. Conversely, if the variance was denied, it would be unjust as both neighbors have already reached a height of 24' feet or more, which is greater than what we are requesting. In keeping with the "spirit of the SLDC," particularly the "sustainable" part, allowing our variance would allow our passive solar and sustainable design.

Two Story:

1. Due to there being two other homes on either side of our property which are both two-story homes our two-story design will not be contrary to public interest, but inline with the existing neighborhood features. Additionally, as we are a private property, surrounded by other private properties, the interest of the public seems minimal.
2. As mentioned above, the "extraordinary and exceptional situations" as related to this property is that it runs long from the North to the South, but somewhat narrow from East to West. In order to build the house set back from the driveway and neighbor's property the home's South facing wall that extends from East to West cannot



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be much longer than our current design. As we have implemented a passive solar design with all bedrooms having a South facing window, we will need our current two-story design. In fact no other design would allow all bedrooms and the living room and kitchen to have South facing windows. As we have already invested in the design and paid for plans, and we cannot implement an effective passive solar design separate from what we have, denying this variance would "result in peculiar and exceptional practical difficulties" for us. It would also result in "exceptional and undue hardship" on us as we are expecting our first baby and aren't ready to redesign the home, without a passive design, and pay for more plans.

3. Granting this variance, allowing us to design our home consistent with the design of the neighbors and neighborhood, would allow for "substantial justice" to be done. Conversely, if the variance was denied, it would be unjust as both neighbors with adjacent property lines already have two-story homes. In keeping with the "spirit of the SLDC," particularly the "sustainable" part, allowing our variance would allow our passive solar and sustainable design.

Slope Disturbance:

1. The public interest, as it relates to private property in residential neighborhoods, is best served when private property owners are allowed to sustainably and safely build reasonable family homes on their own properties. As we need a driveway to reach our build site, and our current plan, which requires the slope disturbance, is the only reasonable option, we need this variance for the above mentioned interest to be served.

2. In the case of our needed driveway, "the strict application of the code would result in peculiar and exceptional practical difficulties," due to the natural landscape and surrounding properties. Due to the fact that the North and West sides of the property are flanked by private property without any easements, and the fact that the South side of the property is well above the road, our only option is to build our driveway on the East side of the property. It just so happens that the East side of the property naturally has a slope greater than what is usually allowed to be disturbed. We cannot build our driveway without disturbing this slope, and not allowing our driveway would mean we could not build on our property, and would almost render the property worthless. This would certainly "result in peculiar and exceptional practical difficulties" AND "exceptional and undue hardship on the owner (us)."

3. As mentioned above, in order for "substantial justice" to be done, we would be given the chance to build our driveway and home. As we invested in professional plans from an engineer, and we have a sustainably designed driveway and home, this variance would easily be in keeping with "the spirit of the SLDC."

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CHECKED BY	JO
DRAWN BY	JO
DESIGNED BY	JO
REVIEWED BY	JO

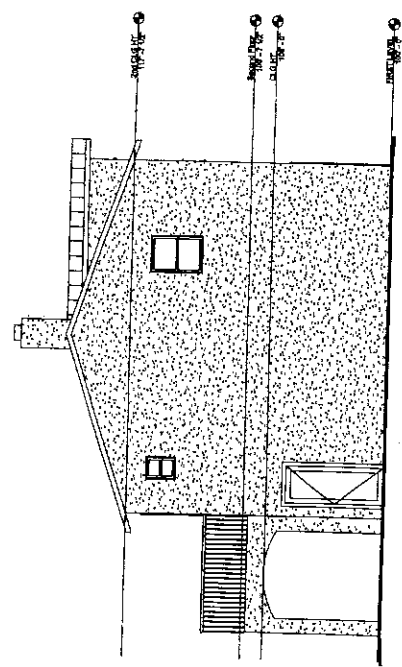
SHEET #
06
OF 06

DESCRIPTION
Elevations

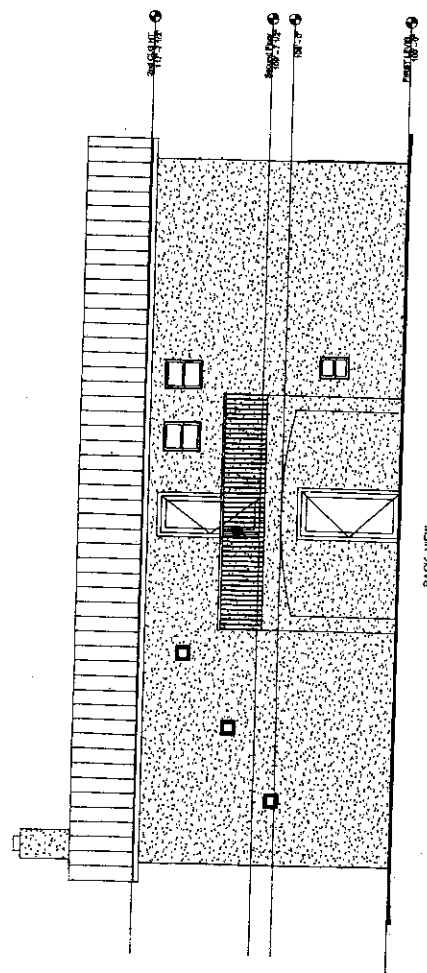
PROJECT
NEW RESIDENCE

CLIENT:
Prabhu Singh Khalsa
East Sombrillo Rd.
Española, NM

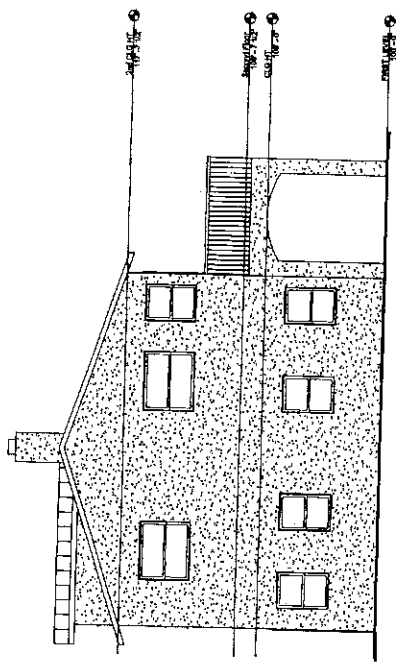
QUEZADA DESIGN
505-977-9855
ALBUQUERQUE, NM



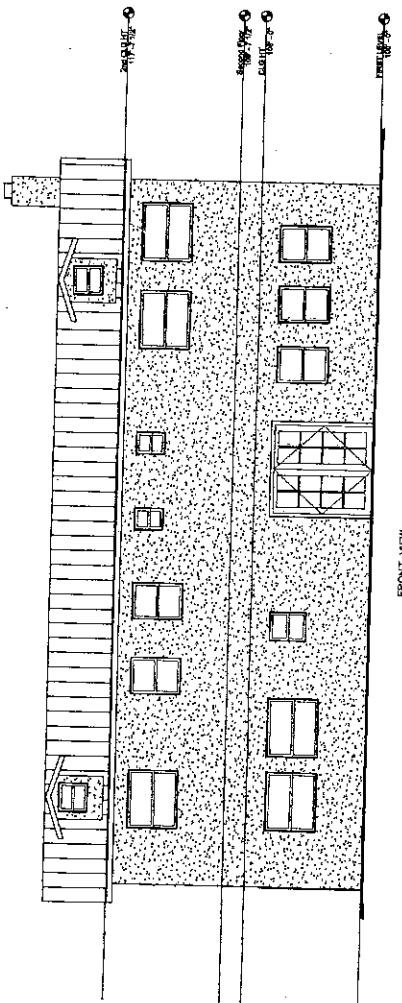
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BACK VIEW
SCALE 1/4"=1'-0"

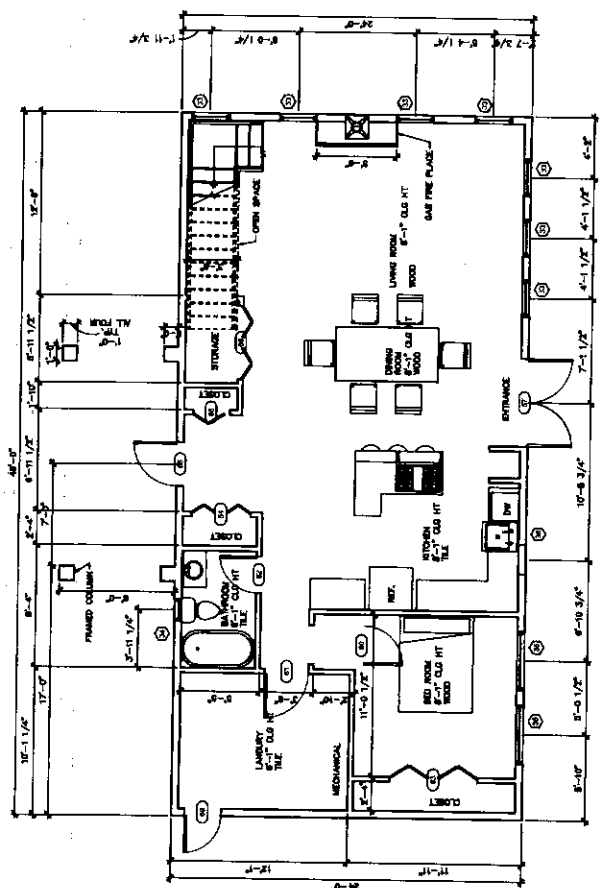


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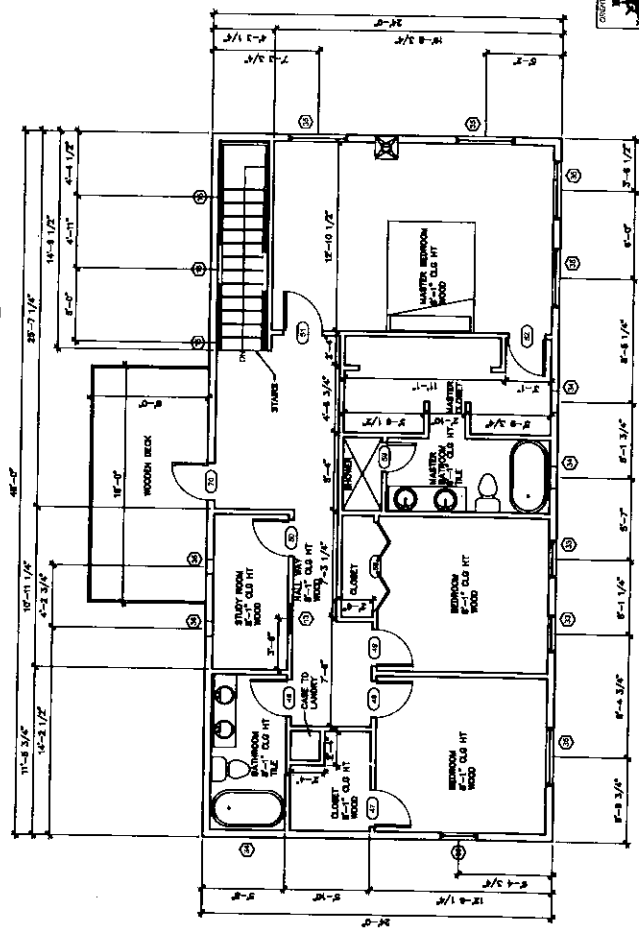


FRONT VIEW
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[illegible]

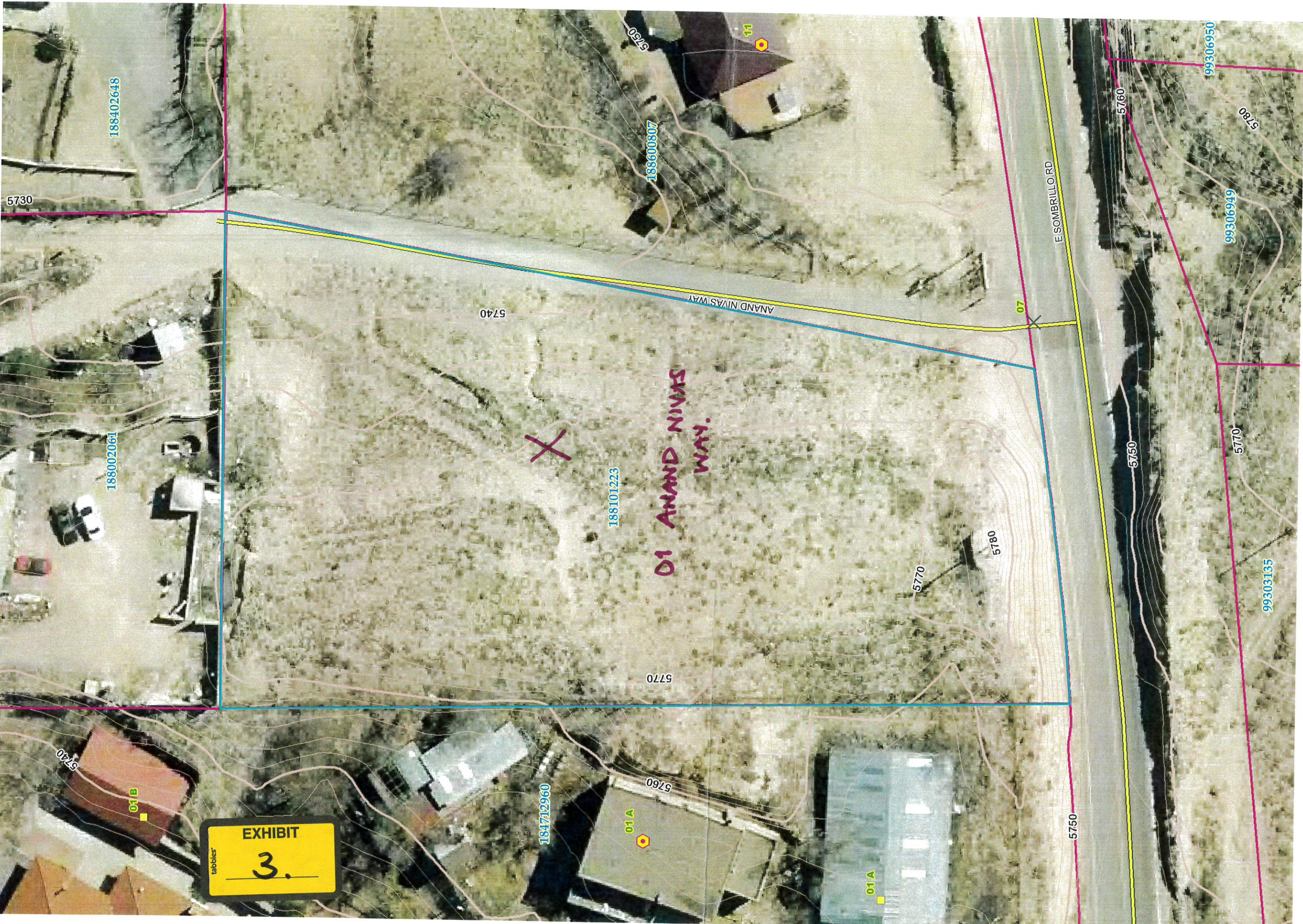
First Floor Plan
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Second Floor Plan
SCALE: 1/4"=1'-0"

Dance for a Cause									
Activity	Number of Participants	Number of Volunteers	Amount of Money Raised	Amount of Time Spent	Amount of Time Spent	Amount of Time Spent	Amount of Time Spent	Amount of Time Spent	Amount of Time Spent
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3. Dance for a Cause	100	10	\$100.00	10	10	10	10	10	10
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6. Dance for a Cause	100	10	\$100.00	10	10	10	10	10	10
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8. Dance for a Cause	100	10	\$100.00	10	10	10	10	10	10
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16. Dance for a Cause	100	10	\$100.00	10	10	10	10	10	10
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18. Dance for a Cause	100	10	\$100.00	10	10	10	10	10	10
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20. Dance for a Cause	100	10	\$100.00	10	10	10	10	10	10
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23. Dance for a Cause	100	10	\$100.00	10	10	10	10	10	10
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30. Dance for a Cause	100	10	\$100.00	10	10	10	10	10	10
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41. Dance for a Cause	100	10	\$100.00	10	10	10	10	10	10

tabbles[®]
EXHIBIT
3.





SANTA FE COUNTY

Aerial Photography from 2014
Contour Interval 2 Feet (source: 2001)
North American Vertical Datum 1988

This information is for reference only.
Santa Fe County assumes no liability for
errors associated with the use of these data.
Users are solely responsible for
confirming data accuracy.

Subject Property

Parcels

Elevation Isolines

7400 Foot Elevation

7800 Foot Elevation

2012 Base Flood Elevations

0.2 % Annual Chance Flood Hazard

2012 Zone A (No BFEs Determined)

2012 Zone AE

2012 Floodways

2012 Zone AO

2012 Zone D

Roads

1:360

1 inch represents 30 feet

10 5 0 10 20 30 40 Feet

N

March 31, 2017

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

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

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

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

7.17.7. Restoration of Disturbed Areas.

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

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

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

7.17.8. [Reserved]

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

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

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

7.17.9.2 Standards.

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

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

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

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

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

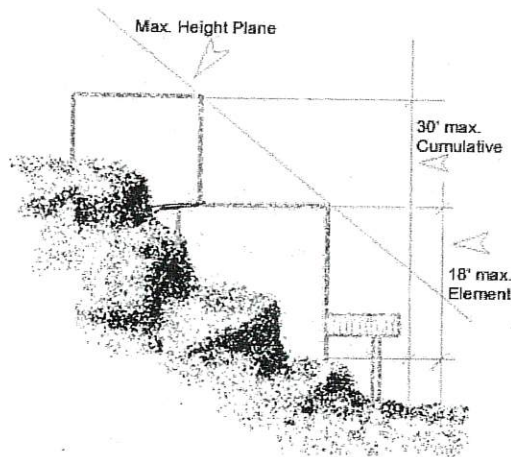
6. The finished floor elevation of any structure built on a natural slope between fifteen percent (15%) and thirty percent (30%) shall not exceed five feet above the natural grade at any point.

7. No significant tree may be removed from slopes greater than thirty (30) percent.

7.17.9.3 Height.

1. The height of any structure located on land that has a natural slope of fifteen percent (15%) or greater shall not exceed eighteen feet (18'). The distance between the highest point of the structure and the lowest point at the natural grade or finished cut shall not exceed thirty (30) feet, unless the portion of the slope over fifteen percent (15%) is incidental to the entire site.

Figure 7.6: Height of Structures in Steep Slope Areas.



2. Structures on ridges, ridgelines, and shoulders shall not exceed fourteen (14) feet in height and shall be limited to one story. However, a structure on a ridge or ridgeline that is a one story pitched roof structure shall not exceed eighteen (18) feet in height so long as the structure is screened from view from an arterial or major arterial road.

7.17.9.4. Architectural and Appearance Standards.

1. A Structure located on a slope in excess of fifteen percent (15%) shall be designed to conform to the natural terrain by following contours to minimize cuts and fills, fitting into existing landforms and solidly meeting the ground plane. Any pier foundations shall be enclosed so that exterior walls appear to meet the ground and such a foundation system shall not exceed five vertical feet above the natural grade.

2. Buildings should be designed within variations in height and orientation, and within offset walls to reduce the visible mass or bulk.

3. Roof colors visible from adjacent properties or from the street shall be muted and of non-reflective value (LRV) of less than 40.

EXHIBIT

5.

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 spirit of the SLDC is observed and substantial justice is done.



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.

CERTIFICATION OF POSTING

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

Case # V17-5160 was posted for 15 days on the property beginning

The 9 day of July
2017. **

Regina Y. Spamer
Regina Y. Spamer
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~~ }

Rio Arriba

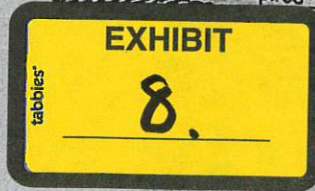
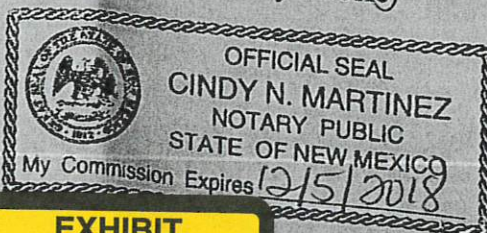
The foregoing instrument was acknowledged before me this 13th day of

July, 2017, By Regina Macias-Spamer.

Cindy N. Martinez
Notary Public

My Commission Expires:

12/5/2018



NBF-18

LEGAL #82884

CASE # V 17-5160
Khalsa/Spamer

**NOTICE OF PUBLIC
HEARING**

Notice is hereby given that a public hearing will be held to consider a request by Prabhu Khalsa and Regina Spamer, Applicants, for a variance of Chapter 7.17.9.2.3.2 height of a structure to exceed 18' on a ridgetop, allow a two story residence on a ridgetop, and a variance of Chapter 7.17.9.2.4 allow a driveway to disturb 30% 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 North,
Range 8 East, (Com-
mission District

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 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.

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

LIST OF PROPERTY OWNERS WITHIN 500 FT.
(Regina & Prabhu's property)

Owner Name:
SPENCER-BROCKWAY,
MEGEATH
Physical Address:
11 E SOMBRILLO RD
ESPANOLA, NM 87532
Owner Mailing Address:
11 SOMBRILLO RD
ESPANOLA, NM 875329628

Owner Name:
ROMERO, FRED P III &
Physical Address:
13 E SOMBRILLO RD
ESPANOLA, NM 87532
Owner Mailing Address:
PO BOX 155
SANTA CRUZ, NM 87567-0155

Owner Name:
TRAPP, ROBERT
Physical Address:
19 E SOMBRILLO RD
ESPANOLA, NM 87532
Owner Mailing Address:
BOX 122
ESPANOLA, NM 87532

Owner Name:
KHALSA, KRISHAN K
Physical Address:
5 ANAND NIVAS WAY
ESPANOLA, NM 87532
Owner Mailing Address:
806 BAMBOO LN
DELREY BEACH, FL 33483

Owner Name:
SANDOVAL, ROSITA O
Physical Address:
6 ANAND NIVAS WAY
ESPANOLA, NM 87532
Owner Mailing Address:
PO BOX 1874
ESPANOLA, NM 87532

Owner Name:
KHALSA, SAT SIRI K
Physical Address:
3 KHALSA WAY
ESPANOLA, NM 87532
Owner Mailing Address:
BOX 486
SANTA CRUZ, NM 87567

Owner Name:
KHALSA, HARI S & LORENA P
Physical Address:
9 KHALSA WAY
ESPANOLA, NM 87532
Owner Mailing Address:
PO BOX 1421
SANTA CRUZ, NM 87567

Owner Name:
KHALSA, SATNAM SINGH & GFK
Physical Address:
11 KHALSA WAY
ESPANOLA, NM 87532
Owner Mailing Address:
PO BOX 776
SANTA CRUZ, NM 87567

Owner Name:
RODRIGUEZ, BENJAMIN P &
Physical Address:
1 C OLD ORCHARD LN
ESPANOLA, NM 87532
Owner Mailing Address:
PO BOX 1393
SANTA CRUZ, NM 87567

Owner Name:
BROWN, CECIL JR OR EDITH G
Physical Address:
1 B OLD ORCHARD LN
ESPANOLA, NM 87532
Owner Mailing Address:
PO BOX 718
SANTA CRUZ, NM 87567

Owner Name:
BUSTOS, LOURDES
Physical Address:
1 E SOMBRILLO RD
ESPANOLA, NM 87532
Owner Mailing Address:
PO BOX 1348
SANTA CRUZ, NM 87567

Owner Name:
LEGACY OF YOGUI
FOUNDATION
Physical Address:
27 NM 106
ESPANOLA, NM 87532
Owner Mailing Address:
PO BOX 1910
SANTA CRUZ, NM 87567

Owner Name:
ROYBAL, DULCINIA V
Physical Address:
3 W SOMBRILLO RD
ESPANOLA, NM 87532
Owner Mailing Address:
2201 WEDGEWOOD CT NW
ALBUQUERQUE, NM 87120

Owner Name:
WEISS, ALAN
Physical Address:
0 SOMBRILLO
ESPANOLA, NM 87532
Owner Mailing Address:
PO BOX 351959
LOS ANGELES, CA 90035 (3 lots)

Owner Name:
AKAL SECURITY INC.
Physical Address:
22 E SOMBRILLO RD
ESPANOLA, NM 87532
Owner Mailing Address:
7 INFINITY LOOP
ESPANOLA, NM 87532

Owner Name:
SOMBRILLO ELEMENTARY
SCHOOL
Physical Address:
18670 US 84-285
ESPANOLA, NM 87532
Owner Mailing Address:
20C NM 106
ESPANOLA, NM 87532

Owner Name:
CHENG, PAUL & ANNE
Physical Address:
0 E SOMBRILLO RD
ESPANOLA, NM 87532
Owner Mailing Address:
11412 FIELDSTONE LN
RESTON, VA 20191-3919

Owner Name:

KHALSA, GURU SANT SINGH &
SUKHDEEP KAUR

Physical Address:

SR 106
ESPANOLA, NM 87532

Owner Mailing Address:

1967 RAPID WATER WAY
YUBA CITY, CA 95991-8232

Owner Name:

DREAMCATCHER CINEMA 10,
LLC

Physical Address:

15 NM 106
ESPANOLA, NM 87532

Owner Mailing Address:

BOX 427
ELKHART, KS 67950

PUBLIC NOTICE
The State of Nevada is hereby giving notice that the Nevada Department of Conservation and Natural Resources has received a request from the Nevada Department of Transportation for a right-of-way easement for a proposed highway project. The project is located in the State of Nevada, within the Nevada Department of Conservation and Natural Resources, and is subject to the provisions of Chapter 217.1 of the Nevada Revised Statutes. The project is located in the State of Nevada, within the Nevada Department of Conservation and Natural Resources, and is subject to the provisions of Chapter 217.1 of the Nevada Revised Statutes. The project is located in the State of Nevada, within the Nevada Department of Conservation and Natural Resources, and is subject to the provisions of Chapter 217.1 of the Nevada Revised Statutes.

NOTICE OF APPOINTMENT OF REPRESENTATIVE TO REPRESENT THE STATE OF NEVADA
The State of Nevada is hereby giving notice that the Nevada Department of Conservation and Natural Resources has received a request from the Nevada Department of Transportation for a right-of-way easement for a proposed highway project. The project is located in the State of Nevada, within the Nevada Department of Conservation and Natural Resources, and is subject to the provisions of Chapter 217.1 of the Nevada Revised Statutes. The project is located in the State of Nevada, within the Nevada Department of Conservation and Natural Resources, and is subject to the provisions of Chapter 217.1 of the Nevada Revised Statutes. The project is located in the State of Nevada, within the Nevada Department of Conservation and Natural Resources, and is subject to the provisions of Chapter 217.1 of the Nevada Revised Statutes.