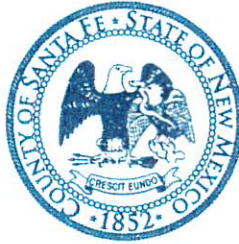


Henry P. Roybal
Commissioner, District 1

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: March 21, 2017

TO: SLDC Hearing Officer

FROM: Mathew Martinez, Development Review Specialist *VZ for MM*

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

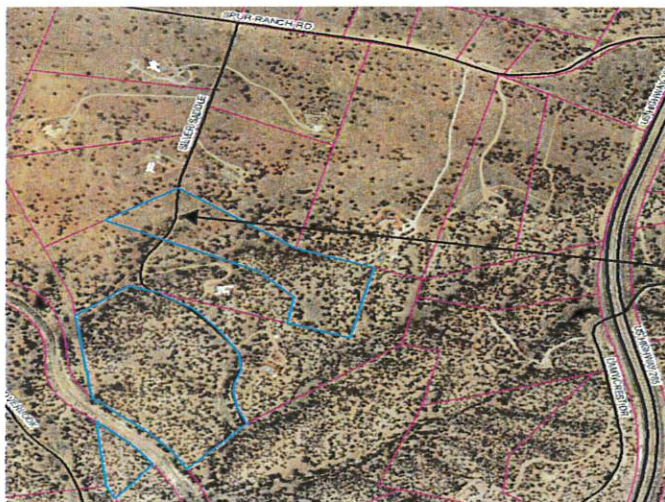
FILE REF.: CASE # V 17-5010 Michael and Jill Schlumberger and Lee Fugate

ISSUE:

Michael and Jill Schlumberger and Lee Fugate Applicants, Ted Harrision, Agent, request variances of Ordinance No. 2016-9, the Sustainable Land Development Code (SLDC as amended), Chapter 7.11, Table 7-13 Road Design Standards to allow a roadway to be less than 20' in width, and to allow the roadway to exceed a 9% grade.

The properties are located at 30 and 45 Silver Saddle Road, within the vicinity of Spur Ranch Road, within Section 32, Township 15 North, Range 10 East (Commission District 5) SDA-2.

Vicinity Map:



Site Location

NBA-1

SUMMARY:

The first Applicants (Schlumbergers) are the owner of the property at 30 Silver Saddle Road as indicated by the warranty deed recorded in the records of the Santa Fe County Clerk on October 29, 2004, as Instrument number 1352700. The second Applicant (Fugate) is a prospective buyer of the property at 45 Silver Saddle Road which is currently owned by Santa Fe Ranchland as indicated by the warranty deed record in the records of the Santa Fe County Clerks on October 29, 1982 in book 450 page 745. The Applicants are requesting a variance to allow a roadway to be less than 20' in width, and to allow the roadway to exceed a 9% grade.

The property at 30 Silver Saddle Road consists of 12.529 acres, and the property at 45 Silver Saddle Rd consists of 29.802 acres. Both properties are within the vicinity of Spur Ranch Road in the Rural Residential zoning district.

The variances sought by the Applicants are regarding Chapter 7, Table 7-13 Rural Road Classification and Design Standards (SDA-2 and SDA-3). The Applicants are requesting variances to allow a roadway to be less than 20' in width, and to allow the roadway to exceed a 9% grade.

The Applicant's agent states that Silver Saddle Road serves eleven lots that were developed in 1990 with a 50' right of way. Without a variance, the existing roadway will need to be redeveloped with 20-ft driving lanes, turnouts, drainage ditches and culverts. Based on estimates from local civil engineers and road contractors, the cost of Silver Saddle Road's widening could be \$150,000-\$250,000. Given current values of \$150,000-250,000 per lot, the cost of improving Silver Saddle Road to the SLDC standards will severely diminish the Applicants' property values. According to local real estate professionals, the expected cost of County-imposed road and drainage improvements would make the Properties extremely difficult to market and, possibly, without value beyond that of an open space use.

Staff Response: Silver Saddle Road does not currently meet Santa Fe County Road Standards which would require two driving lanes each lane must be a minimum of 10' in width, a max grade of 9%, 50' easement, and 3" of base course. as stated in chapter 7 table 7-13 Rural Road Classification and Design Standards. Although the Applicants are interested in building on their existing lots, offsite road improvements are a requirement for all development as stated in Chapter 7 section 7-11. Section 7.11.11.5.1 allows for residential development to reduce the road easement for off-site road to no less than 20' if adequate drainage control is provided and allow the surface to be hard packed dirt with compaction of 95% of the maximum density. Chapter 4 Section 4.9.7.6.1 Administrative minor deviations allows deviation from dimensional requirements standards of chapters 7,8 and 9 of the SLDC not to exceed ten percent(10%) of the required dimension, therefore allowing the roadway to be a minimum of 18 feet in width. Driveways require a minimum of 14' in width to serve no more than 2 lots, so the request wouldn't even meet driveway standards. Staff believes that Widening Silver Saddle Road from the existing 10 to 13 foot wide roadway to 18 feet is not unreasonable, since there is already a 50 foot access and utility easement that was dedicated for the right of way. A 10-13ft roadbed does not allow emergency vehicles or even passenger vehicles to pass one another.

NBA-2

The Applicants did not provide us with a breakdown of the estimated cost of improvements as stated above, but it is assumed that the cost includes basecourse on the roadway. Based on staff's estimate, the cost of improvements would be significantly lower than what the Applicant is stating. With the elimination of basecourse, the cost would be greatly reduced for an 18 foot wide roadbed with a dirt surface.

The Applicants' agent states, although a detailed slope analysis has not been made, County staff estimates that one or two sections of Silver Saddle Road may involve slopes with 12-15 percent grades. To meet the SLDC's minimum grade requirement of 9 percent, an extensive excavation responsibility would be imposed on the Applicants. Such a project would involve significant re-contouring and re-grading of slopes within *and outside of* the platted 50-ft ROW corridor. The visual impact, erosion risks and loss of vegetation from such a project would be destructive to the escarpment, as well as prohibitively expensive to engineer, construct and re-vegetate.

The Applicants agent further states, according to recent contractor estimates, the *combined cost* of widening and re-grading (to comply with 9% grade) Silver Saddle to meet SLDC standards could exceed \$350,000. The Applicant states that at this level of investment, the undeveloped lots along Silver Saddle would have nominal residual value and the County's code requirement could be construed as imposing the effect of a "taking." According to outside legal counsel, the financial burden associated with improving Silver Saddle on a relatively small number of innocent property owners would be, at a minimum, "wholly unfair and out of conformance with accepted standards of proportionality."

Staff Response: The maximum rural road grade is 9% as indicated in the SLDC in Chapter 7 Table 7-13 Rural Road Classification and Design Standards. County Staff has conducted a field inspection of Silver Saddle Road and estimates that two locations along Silver Saddle Road have slopes of 12-15 percent. Staff feels that given the dedicated ROW easement there is room to get those 2 sections of Silver Saddle Road to a 9% grade or better. The Applicant has produced no plans to indicate that the regrading cannot be accommodated in the existing easement.

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

Chapter 7, Table 7-13 Rural Road Classification and Design Standards (SDA-2 and SDA-3).
(Exhibit 6)

Chapter 4, Section 4.9.7.1, Variances, Purpose

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

NBA-3

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, (Exhibit 7) 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) where authorized by NMSA 1978, Section 3-21-8(C):

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

Chapter 4, Section 4.9.7.5 Variance Conditions of approval.

1. The Planning Commission may impose conditions on a variance request necessary to accomplish the purposes and intent of the SLDC and the SGMP and to prevent or minimize adverse impacts on the general health, safety and welfare of property owners and area residents.
2. All approved variances run with the land, unless conditions of approval imposed by the Planning Commission specify otherwise.
3. All approved variances automatically expire within one year of the date of approval, unless the applicant takes affirmative action consistent with the approval.

As required by the SLDC, the Applicants presented the Application to the Technical Advisory Committee (TAC) on November 3, 2016, 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 March 6, 2017. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on March 6, 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 January 12, 2017.

NBA-4

RECOMMENDATION:

Staff recommends denial of the Applicants request for a variance to allow a roadway to be less than 20' in width, and to allow the roadway to exceed a 9% grade and recommends that minimum road width should be 18ft.

If the decision of the hearing officer is to recommend approval of the variances staff recommends the following condition be imposed:

1. The Applicant must obtain building permits for dwelling units.
2. The Applicant shall comply with all Fire Prevention Division requirements at time of development permit Application

Staff requests the Hearing Officer memorialize findings of fact and conclusions of law in a written recommendation. The Santa Fe County Planning Commission (SFCPC) will be holding a public hearing on this matter on May 18, 2017.

EXHIBITS:

1. Applicants Request
2. Photos
3. Fire Review
4. Aerial Photos of Site
5. Chapter 7, Table 7-13 Rural Road Classification and Design Standards
6. Chapter 4, Section 4.9.7.4, Variance Review criteria
7. Noticing
8. Letters of Support

NBA-5

NBA-6

Commonweal Conservancy

February 10, 2017

Ms. Penny Ellis-Green
Santa Fe County Growth Management Administration
102 Grant Avenue
Santa Fe, New Mexico 87501

RE: SLDC offsite development requirements – Silver Saddle Road, Lamy, NM

Dear Penny:

By this letter, the owners of 45 Silver Saddle Road and 30 Silver Saddle Road (hereafter, the “Applicants”) request a variance from the recently-adopted road standard requirements specified in Section 7.1.11 of the Santa Fe County Sustainable Land Use Development Code (SLDC).

The Applicants include: i) the owners of 45 Silver Saddle Road, Santa Fe Ranchlands; ii) the contracted purchasers of 45 Silver Saddle Road, Michael and Jill Schlumpberger; and iii) Lee and Virginia Fugate, the owners of 30 Silver Saddle Road. Together, the two parcels associated with this variance application shall be hereafter referred to as the “Properties.”

This variance application is presented for consideration by Santa Fe County in advance of any building permit application(s) by the owners or their representatives. Accordingly, this application serves as a pre-emptive action: one that will ensure that the Properties can be developed in accordance with their designated zoning without risk of incurring costly improvements to Silver Saddle Road and adjoining properties.

Variance request context

In October 2016, the Applicants were advised by Land Use Planning staff that Silver Saddle Road would need to be re-engineered and redeveloped to meet the recently adopted standards of the SLDC. Specifically, the Applicants were informed that the existing road would need to be improved to allow for all-weather 20-foot travel lanes, along with significant modification to the road profile so that it would conform to the County’s nine percent (9%) maximum grade allowance.

According to County records, Silver Saddle Road was developed in the early 1990s concurrently with the adjoining property’s subdivision and initial phase of development. Silver Saddle Road is a private roadway. Legal access to the Properties is available from Silver Saddle Road through Spur Ranch Road and US Highway 285.



NBA-7

Silver Saddle Road serves eleven (11) parcels that were platted in a series of independently approved lot splits between 1990 and 2013. Of these parcels, seven (7) lots are improved properties and four (4) are undeveloped. The lots range in size from 12.5 acres to 35 acres.

All of the properties served by Silver Saddle Road are associated with the rural residential zoning classification (RUR-R1): one that allows for development of single family residential development at a density of one unit per 10 acres. Three of the four undeveloped properties are currently marketed for sale, along with one of the improved parcels. None of the parcels served by Silver Saddle Road are proposed for subdivision.

SLDC code requirements

According to Section 7.1.11, the SLDC requires development applicants served by "nonconforming" private roads to be responsible for improving those roads to County standards prior to issuance of a building permit, irrespective of the parcel's legal lot status, historical development rights, or approved zoning classification.

At the time of Silver Saddle Road's development in the 1990s, the road was constructed at an average width of 14-ft along its approximately 1.2-mile length -- a width that is 6-ft +/- narrower than the SLDC mandates.

Silver Saddle Road straddles an landscape that includes the "Eldorado Plateau" and the Galisteo Basin escarpment. As Silver Saddle Road meanders south from Spur Ranch Road, two short sections of road were constructed with grades of 14-15%. The maximum slope allowed in the SLDC for RUR-R1 zoning is nine percent (9%).

Minimum travel lane widths

The Applicants respectfully request a variance from the requirements of Section 7.1.11 to allow their properties to be immediately eligible for development as single family homes and/or other uses as allowed by the RUR-R1 zoning classification.

Without a variance, the existing roadway will need to be redeveloped with 20-ft travel lanes, turnouts, drainage ditches and culverts. Based on estimates from local civil engineers and road contractors, the cost of Silver Saddle Road's widening could be \$150,000-\$250,000. Given current values of \$150-250,000 per lot, the cost of improving Silver Saddle Road to the SLDC standards will severely diminish the Applicants' property values. According to local real estate professionals, the expected cost of County-imposed road and drainage improvements would make the Properties extremely difficult to market and, possibly, without value beyond that of an open space use.

NBA-8

As noted above, Silver Saddle Road serves eleven residential lots. Over the past 26+ years, seven homes have been developed along the roadway. Building permits have been issued to properties located along Silver Saddle Road less than ten years ago. A 35-acre lot split was approved for 35 Silver Saddle Road in 2015. In every instance, building permits and subdivision approvals were approved without requirement for supplemental improvement to Silver Saddle Road even though the 1981 Land Use Development Code specified 20-ft travel lanes as the development standard for subdivisions and other boundary line adjustment derived neighborhood planning.

So as to spare the Applicant's the extraordinary expense and uncertainty that would be associated with a major road and drainage redevelopment project, a variance from Section 7.1.11 of the SLDC is sought to allow for the Properties' development as single family residences in accordance with use rights previously recognized and legally available to the parcels.

Maximum slope allowance

Although a detailed slope analysis has not been made, County staff estimates that one or two sections of Silver Saddle Road may involve slopes with 12-15 percent grades. To meet the SLDC's minimum grade requirement of 9 percent, an extensive excavation responsibility would be imposed on the Applicants. Such a project would involve significant re-contouring and re-grading of slopes within *and outside of* the platted 50-ft ROW corridor. The visual impact, erosion risks and loss of vegetation from such a project would be destructive to the escarpment, as well as prohibitively expensive to engineer, construct and re-vegetate.

According to recent contractor estimates, the *combined cost* of widening and re-grading Silver Saddle to meet SLDC standards could exceed \$350,000. At this level of investment, the undeveloped lots along Silver Saddle would have nominal residual value and the County's code requirement could be construed as imposing the effect of a "taking." According to outside legal counsel, the financial burden associated with improving Silver Saddle on a relatively small number of innocent property owners would be, at a minimum, "wholly unfair and out of conformance with accepted standards of proportionality."

Summary position

However well-intended in their drafting intent (i.e., 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 Silver Saddle Road. By requiring extensive road improvements as a condition of building permit approval, the SLDC deviates dramatically from County land use permitting precedents.

NBA-9

Given the vast lengths 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. If the County rejects the Applicants' request, a dramatic precedent could be established: one that would impact hundreds (perhaps thousands) of property owners throughout Santa Fe county with road redevelopment requirements that, for many, would be impossible to fulfill.

The offsite road improvement provisions associated with Section 7.1.11 of the SLDC threaten to significantly diminish the value and marketability of undeveloped, legally platted lots served by roads with development conditions similar to (or worse than) Silver Saddle Road. This redevelopment requirement -- implemented at the scale of the entire county -- could also cause significant environmental damage to areas of the county that include steep slopes, vulnerable soils and diverse vegetation.

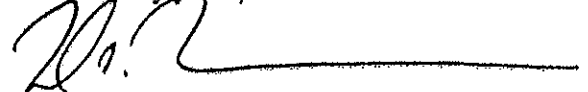
Rather than retroactively apply offsite development responsibilities to properties that have been legal lots of record for 3-26 years -- and whose proposed uses conform to the development allowances of the SLDC and the recently adopted 2015 Santa Fe County zoning map -- the Applicants respectfully request that no new road improvement requirements be mandated, and that building permits be available to such properties without special condition or limitation.

Closing

By this letter, the Applicants respectfully request approval of a variance to Section 7.1.11 of the SLDC by staff, the hearing officer and the Planning Commission so as to allow the Properties to be eligible for future building permits without obligation for significantly widening and re-grading the slope of Silver Saddle Road.

Thank you for allowing the Applicants to present this variance application. My clients and I look forward to presenting our case to the Hearing Officer and members of the Planning Commission in the month ahead.

Respectfully yours,



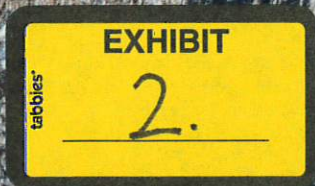
Ted O. Harrison

Agent for the Applicants

Ted O. Harrison
117 N. Guadalupe Street, Suite B
Santa Fe, NM 87501
505.690.3094

N13A-16

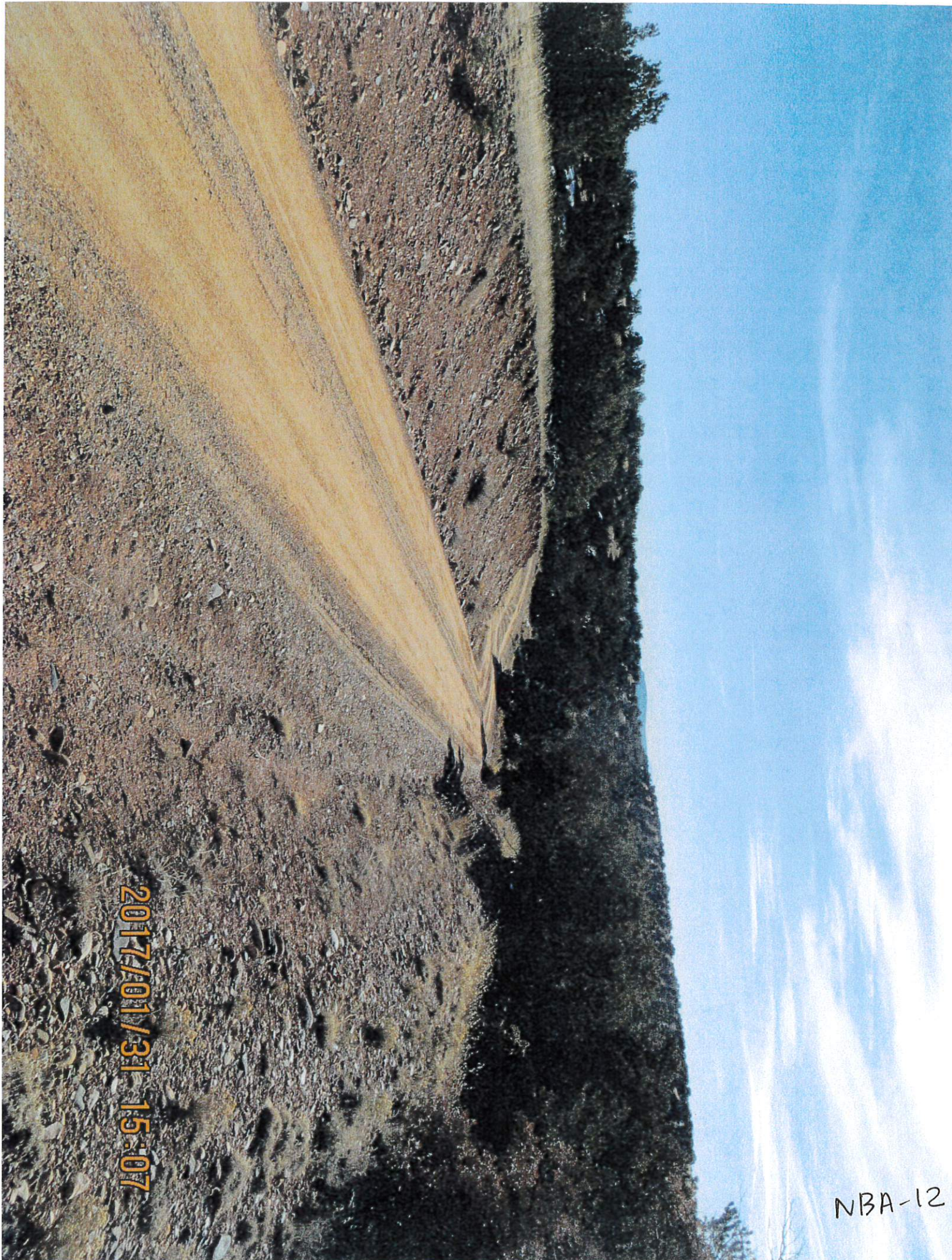
2017/01/31 15:07



NBA-11

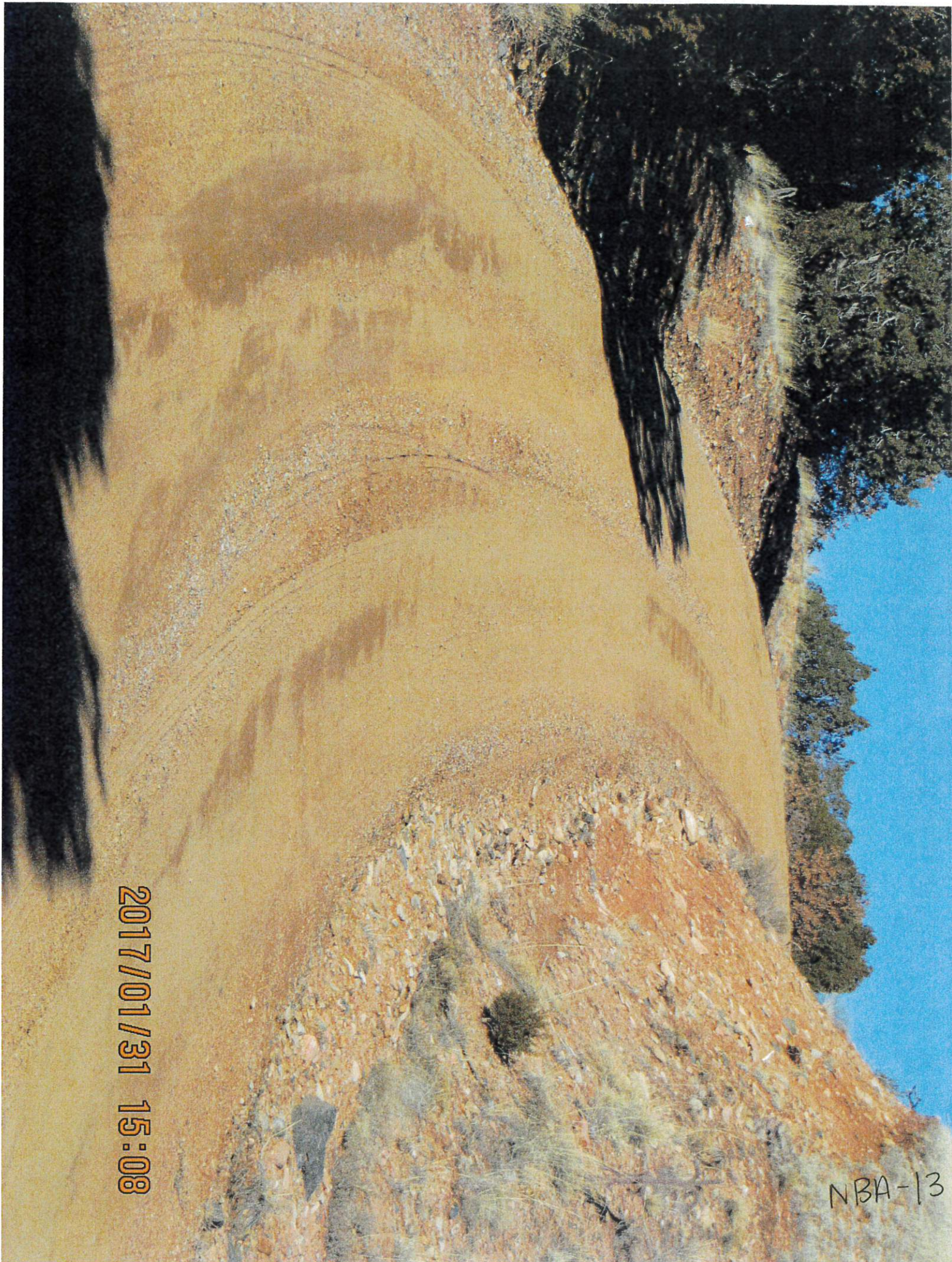
2017/01/31 15:07

NBA-12



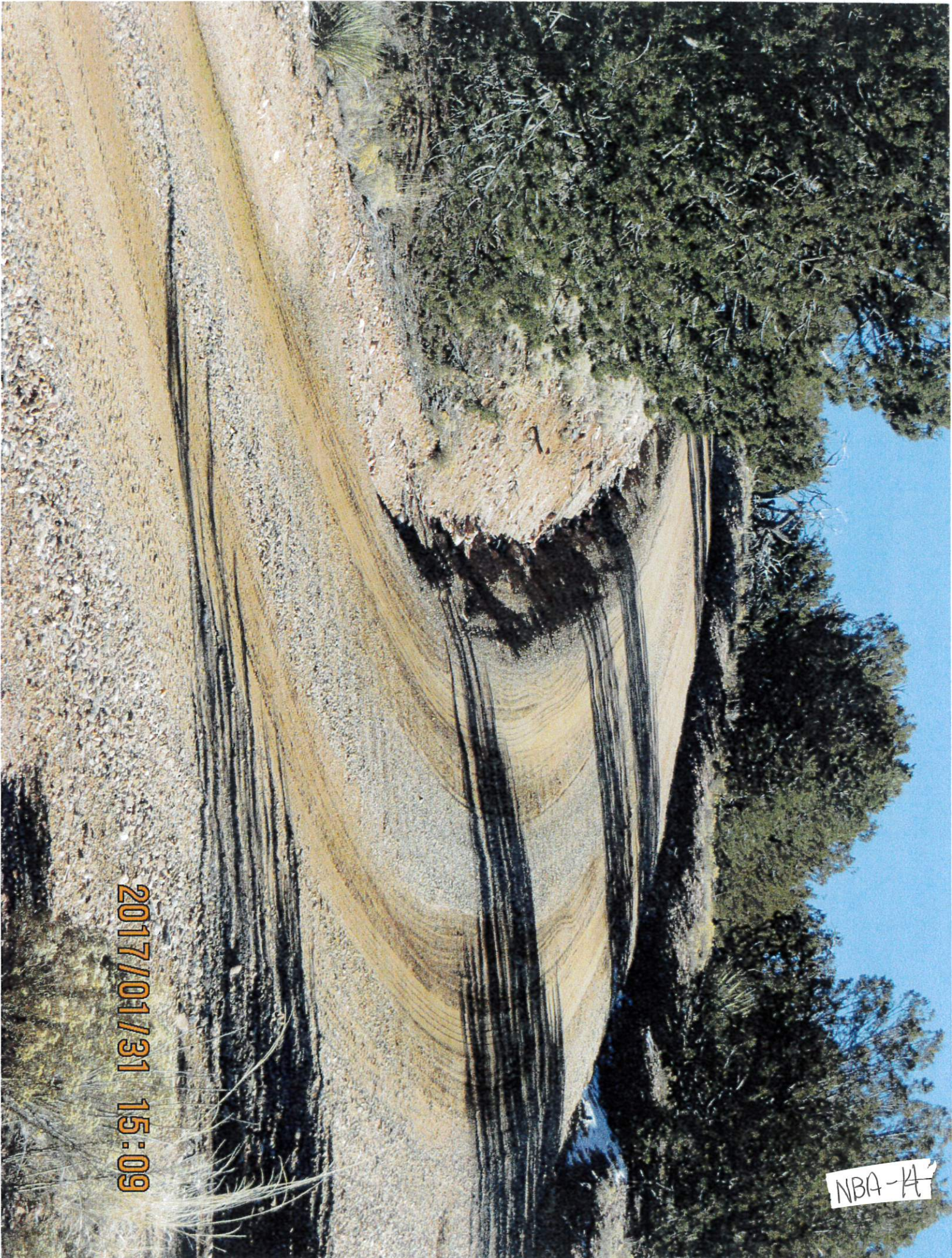
2017/01/31 15:08

NBA-13



NBA-14

2017/01/31 15:09



Henry P. Roybal
Commissioner, District 1

Miguel Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

Santa Fe County Fire Department Fire Prevention Division

Official Development Review

Date	02/07/2017		
Project Name	Lee Fugate & Mike, Jill Schlumpberger		
Project Location	45 and 30 Silver Saddle Road, Lamy New Mexico 87540		
Description	Variance Request for roads	Case Manager	M. Martinez
Applicant Name	Lee Fugate & Mike, Jill Schlumpberger	County Case #	17-5010
Applicant Address	45 and 30 Silver Saddle Road Lamy New Mexico 87540	Fire District	Eldorado
Applicant Phone	419-371-3331		
Review Type:	Commercial <input type="checkbox"/>	Residential <input checked="" type="checkbox"/>	Sprinklers <input type="checkbox"/>
Project Status:	Inspection <input checked="" type="checkbox"/>	Lot Split <input type="checkbox"/>	Wildland <input type="checkbox"/>
	Approved <input type="checkbox"/>	Approved with Conditions <input type="checkbox"/>	Denial <input checked="" type="checkbox"/>
		Hydrant Acceptance <input type="checkbox"/>	Variance <input checked="" type="checkbox"/>
		Zone No. Rur-R	

The Fire Prevention Division/Code Enforcement Bureau of the Santa Fe County Fire Department has reviewed the above submittal and requires compliance with applicable Santa Fe County fire and life safety codes, ordinances and resolutions as indicated:

(Note underlined items):

Summary of Review

- Roads shall meet Santa Fe County road requirements. (page #2)



Fire Department Access

Shall comply with Article 9 - Fire Department Access and Water Supply of the 1997 Uniform Fire Code inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal

▪ Fire Access Lanes

Section 901.4.2 Fire Apparatus Access Roads. (1997 UFC) When required by the Chief, approved signs or other approved notices shall be provided and maintained for fire apparatus access roads to identify such roads and prohibit the obstruction thereof or both.

▪ Roadways/Driveways

Shall comply with Article 9, Section 902 - Fire Department Access of the 1997 Uniform Fire Code inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal.

Roads shall meet the minimum County standards for fire apparatus access roads of a minimum 20' wide all-weather driving surface and an unobstructed vertical clearance of 13' 6" within this type of proposed development.

Driveways shall meet the minimum County standards for fire apparatus access roads within this type of proposed development. Driveway, turnouts and turnarounds shall be County approved all-weather driving surface of minimum 6" compacted basecourse or equivalent. Minimum gate and driveway width shall be 14' and an unobstructed vertical clearance of 13' 6".

Final Status

Recommendation for Variance request denied with the above conditions applied.

Renee Nix, Inspector




Code Enforcement Official

2-7-17

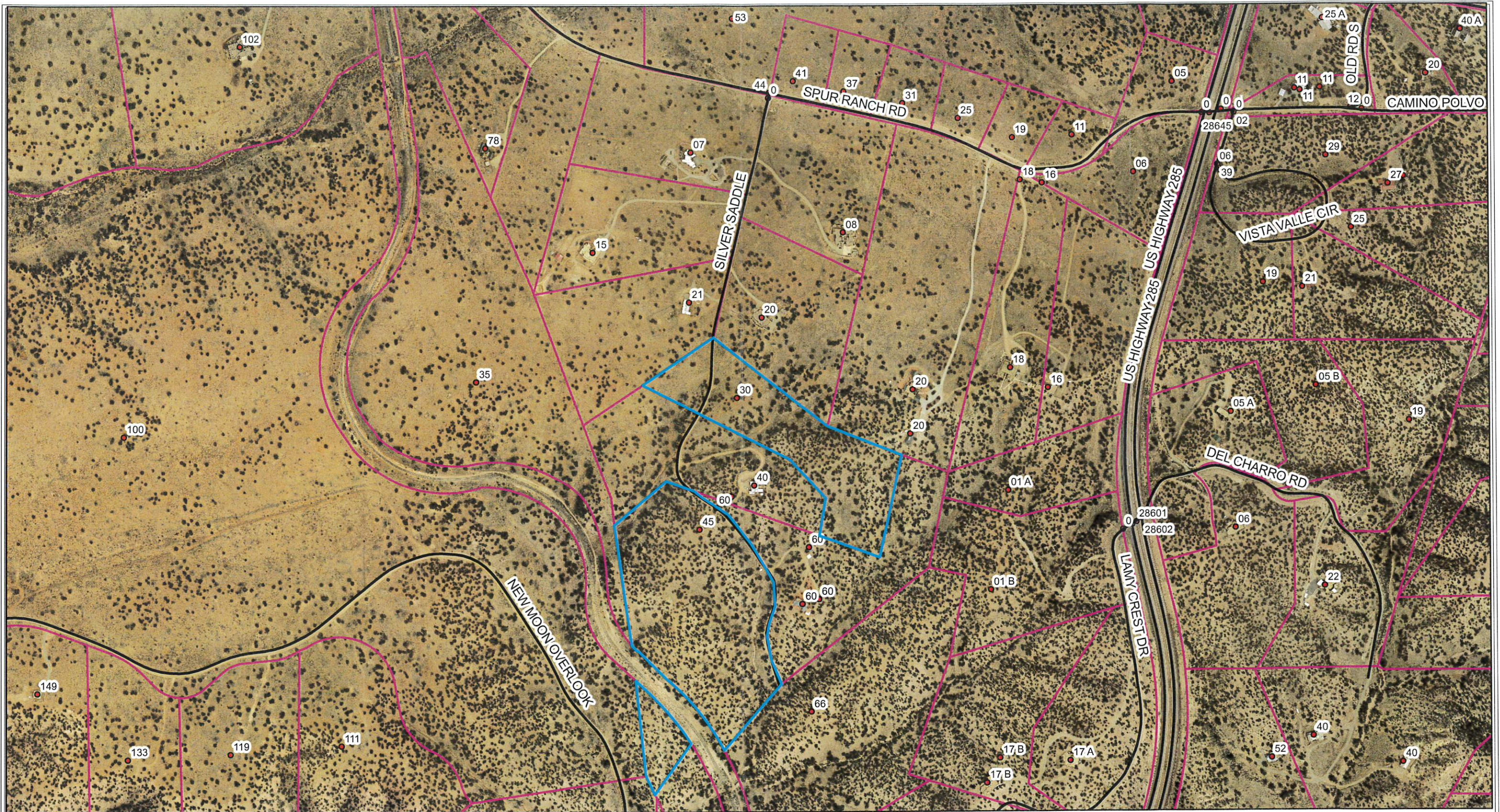
Date

Through: David Sperling, Chief

Jaome Blay, Fire Marshal 

File: DEV/LeeFugate/MikeJillSchlumpberger/020717/E

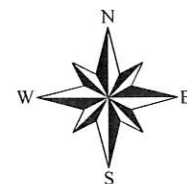
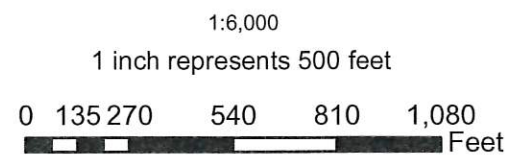
Cy: Matt Martinez, Land Use
Applicant
District Chief Eldorado
File



Legend

ROADS

Parcels



2015 Orthophotography
2 FOOT CONTOURS

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



NBA-17

March 6, 2017

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

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

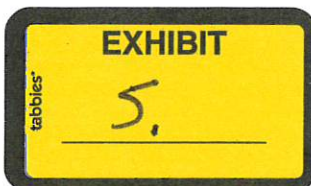
7.11.3. General Requirements. Adequate roads shall be provided such that the arrangement, character, extent, width and grade of each shall conform to this Section.

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

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

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

7.11.3.4. Rules of Interpretation. If and where Section 7.11 fails to adequately address



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.

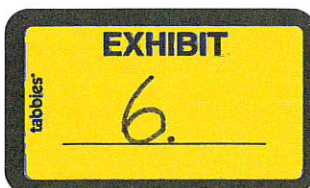
4.9.7.3. Applicability. When consistent with the review criteria listed below, the planning commission may grant a zoning variance from any provision of the SLDC except that the planning commission shall not grant a variance that authorizes a use of land that is otherwise prohibited in the relevant zoning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



CERTIFICATION OF POSTING

I herby certify that the public notice posting regarding a Variance

Case # **17-5020** was posted for 15 days on the property beginning the 6th
day of **March, 2017**.



Signature

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

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

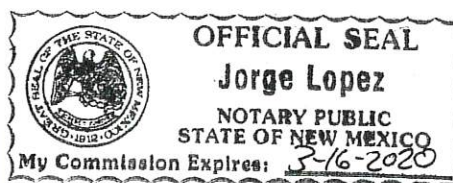
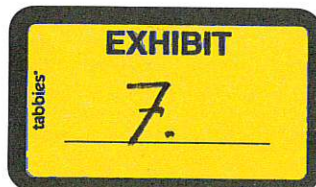
STATE OF NEW MEXICO }
COUNTY OF SANTA FE }

The foregoing instrument was acknowledged before me this 10 day of
March, 2017, By Jorge Lopez.


Notary Public

My Commission Expires:

3-16-2020



NBA - 20

SANTA FE NEW MEXICAN

Founded 1849

LEGAL #82261

CASE # V 17-5010 Michael and Jill Schlumberger and Lee Fugate.

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held to consider a request for variances of Ordinance No. 2016-9, the Sustainable Land Development Code (SLDC as amended), Chapter 7.11, table 7-13 Road Design Standards to allow a roadway to be less than 20' in width, to allow an easement of less than 38', and to allow the roadway to exceed a 9% grade. The properties are located at 30 and 45 Silver Saddle Road, within the vicinity of Spur Ranch Road, within Section 32, Township 15 North, Range 10 East (Commission District 5).

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 21st day of March 2016, at 3:00 p.m. on a petition to the Santa Fe County Hearing Officer and on the 18th day of May 2017, at 4:00 p.m. on a petition to the Santa Fe County Planning Commission.

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

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

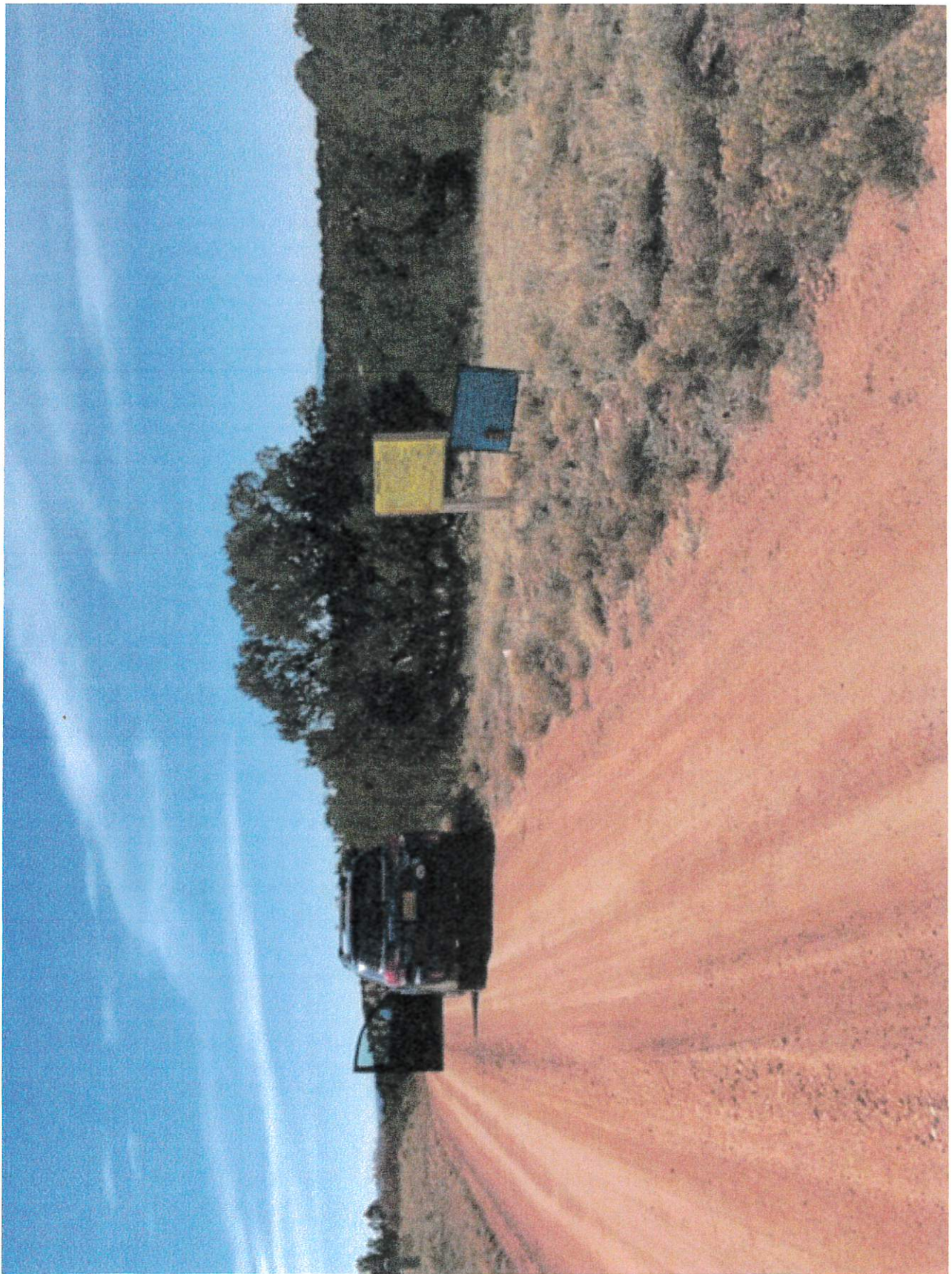
All comments, questions and objections to the proposal may be submitted to the County Land Use Administrator in writing to P.O. Box 276, Santa Fe, New Mexico 87504-0276; or presented in person at the hearing.

Published in the Santa Fe New Mexican on March 6, 2017.

NBA-21



NBA - 22



NBA-23

David Allan Shepard, jr

March 7, 2017

Ms. Penny Ellis-Green
Santa Fe County Growth Management Administration
102 Grant Avenue
Santa Fe, New Mexico 87501

RE: Silver Saddle Road, Lamy, NM – Case #V 17-5010

Dear Penny:

Thank you for the opportunity to provide you with comments on a variance request presented to you by the owners and contract purchasers of 30 Silver Saddle Road and 45 Silver Saddle Road (hereafter, the “Applicants”). The Applicants have requested a variance from the road standard requirements specified in Section 7.1.11 of the Santa Fe County Sustainable Land Use Development Code (SLDC).

As we understand, the Land Use Planning staff has required Silver Saddle Road to be re-engineered and redeveloped to meet the recently adopted standards of the SLDC as a condition of *any* new building permit approval. According to the SLDC, the existing road would need to be improved to accommodate all-weather 20-foot travel lanes, along with significant modification to the road slope to conform to the County’s nine percent (9%) maximum grade allowance.

As you know, Silver Saddle Road is a private roadway, maintained by the eleven (11) parcels that were platted between 1990 and 2013. All of the properties served by Silver Saddle Road are associated with the rural residential zoning classification (RUR-R1): one that allows for development of single family residential development at a density of one unit per 10 acres.

In our experience as owners and residents of the Silver Saddle neighborhood, the existing road design is totally appropriate for a rural area. We do not wish to see the road redeveloped in a manner that will impose excessive suburban design standards on our community. Without a variance, the existing roadway will need to be redeveloped with 20-ft travel lanes, turnouts, drainage ditches and culverts. Based on estimates from local civil engineers and road contractors, the cost of Silver Saddle Road’s widening could be \$150,000-\$250,000.



NBA - 24

David Allan Shepard, jr

Over the past 26 years, seven homes have been developed along the roadway. Building permits have been issued to properties located along Silver Saddle Road less than ten years ago. In every instance, building permits and subdivision approvals were approved without requirement for supplemental improvement to Silver Saddle Road.

Further: to meet the SLDC's minimum grade requirement of 9 percent would involve significant re-contouring and re-grading of slopes within *and outside of* the platted 50-ft ROW corridor. The visual impact, erosion risks and loss of vegetation from such a project would be destructive to the escarpment, as well as prohibitively expensive to engineer, construct and re-vegetate, contributing to estimates that costs will exceed \$350,000.

Please do not hold Silver Saddle to a precedent of road redevelopment requirements that, for many, would be impossible to fulfill. Rather than retroactively apply offsite development responsibilities to properties that have been legally platted for 3-26 years, we respectfully request that no new road improvement requirements be mandated, and that residential building permits be available to all properties on Silver Saddle without special condition or limitation.

We encourage the Planning Commission to grant approval for a variance to Section 7.1.11 of the SLDC so as to allow the Properties to be eligible for future building permits without obligation for significantly widening and re-grading the slope of Silver Saddle Road.

Thank you for allowing those affected to present our views in this matter.

Sincerely,



David A Shepard, jr.

40 Silver Saddle

Lamy, NM 87540

505-466-1666

NBA-25

Ms. Penny Ellis-Green
Santa Fe County Growth Management Administration
102 Grant Avenue
Santa Fe, New Mexico 87501

RE: Silver Saddle, Lamy, NM – Case #V 17-5010

Dear Ms Ellis-Green:

Thank you for the opportunity to provide you with comments on a variance request presented to you by the owners and contract purchasers of 30 Silver Saddle and 45 Silver Saddle. The Applicants have requested a variance from the road standard requirements specified in Section 7.1.11 of the Santa Fe County Sustainable Land Use Development Code (SLDC).

As I understand it, the Land Use Planning staff has required Silver Saddle to be re-engineered and redeveloped to meet the recently adopted standards of the SLDC as a condition of *any* new building permit approval. According to the SLDC, the existing road would need to be improved to accommodate all-weather 20-foot travel lanes, along with significant modification to the road slope to conform to the County's nine percent (9%) maximum grade allowance.

Silver Saddle is a private roadway. The road serves eleven (11) parcels that were platted between 1990 and 2013. All of the properties served by Silver Saddle Road are associated with the rural residential zoning classification (RUR-R1): one that allows for development of single family residential development at a density of one unit per 10 acres.

As owners and residents in the Silver Saddle neighborhood, the proposed road design seems totally inappropriate for a rural area. Neither my family nor our neighbors wish to see the road redeveloped in a manner that will impose excessive suburban design standards on it.

Without a variance, the existing roadway will need to be redeveloped with 20-ft travel lanes, turnouts, drainage ditches and culverts.

Seven homes have been already developed along Silver Saddle. Building permits have been issued to properties located along Silver Saddle Road less than ten years ago. In every instance, building permits and subdivision approvals were approved without requirement for supplemental improvement to Silver Saddle Road even though the 1981 Land Use Development Code specified 20-ft travel lanes as the development standard for subdivisions and other boundary line adjustment derived neighborhood planning.

County staff estimates that one or two sections of Silver Saddle Road may involve slopes with 12-15 percent grades. To meet the SLDC's minimum grade requirement of 9 percent, an extensive excavation burden would be imposed on the Applicants. Such a project would involve significant re-contouring and re-grading of slopes within *and outside of* the platted 50-ft ROW corridor. It appears that the existing culverts would need to be replaced and, should the steep bank be cut into either a rock or gabion retaining wall would need to be built. The visual impact, erosion risks and loss of

NBA-26

vegetation from such a project would be destructive to the escarpment, as well as prohibitively expensive to engineer, construct and re-vegetate.

According to recent contractor estimates, the *combined cost* of widening and re-grading Silver Saddle to meet SLDC standards could exceed \$350,000. At this level of investment the financial burden associated with improving Silver Saddle would impose an unfair cost on a relatively small number of innocent property owners.

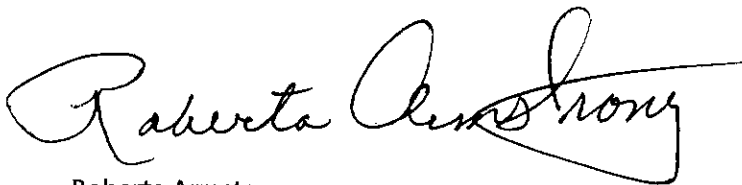
If the County rejects the Applicants' request, a dramatic precedent could be established; one that would impact hundreds (perhaps thousands) of property owners throughout Santa Fe county with road redevelopment requirements that, for many, would be impossible to fulfill.

Rather than retroactively apply offsite development responsibilities to properties that have been legally platted for 3-26 years, I respectfully request that no new road improvement requirements be mandated, and that residential building permits be available to all properties on Silver Saddle without special condition or limitation.

We encourage the Planning Commission to grant approval for a variance to Section 7.1.11 of the SLDC so as to allow the Properties to be eligible for future building permits without obligation for significantly widening and re-grading the slope of Silver Saddle Road.

Thank you for allowing me to present my views in this matter.

Sincerely,

A handwritten signature in black ink, reading "Roberta Armstrong". The signature is fluid and cursive, with a large, sweeping loop at the end of the last name.

Roberta Armstrong
20 Silver Saddle
Lamy, NM
87540

NBA-27

Ms. Penny Ellis-Green
Santa Fe County Growth Management Administration
102 Grant Avenue
Santa Fe, New Mexico 87501

RE: Silver Saddle, Lamy, NM – Case #V 17-5010

Dear Ms Ellis-Green:

Thank you for the opportunity to provide you with comments on a variance request presented to you by the owners and contract purchasers of 30 Silver Saddle and 45 Silver Saddle. The Applicants have requested a variance from the road standard requirements specified in Section 7.1.11 of the Santa Fe County Sustainable Land Use Development Code (SLDC).

As I understand it, the Land Use Planning staff has required Silver Saddle to be re-engineered and redeveloped to meet the recently adopted standards of the SLDC as a condition of *any* new building permit approval. According to the SLDC, the existing road would need to be improved to accommodate all-weather 20-foot travel lanes, along with significant modification to the road slope to conform to the County's nine percent (9%) maximum grade allowance.

Silver Saddle is a private roadway. The road serves eleven (11) parcels that were platted between 1990 and 2013. All of the properties served by Silver Saddle Road are associated with the rural residential zoning classification (RUR-R1); one that allows for development of single family residential development at a density of one unit per 10 acres.

As owners and residents in the Silver Saddle neighborhood, the proposed road design seems totally inappropriate for a rural area. Neither my family nor our neighbors wish to see the road redeveloped in a manner that will impose excessive suburban design standards on it.

Without a variance, the existing roadway will need to be redeveloped with 20-ft travel lanes, turnouts, drainage ditches and culverts.

Seven homes have been already developed along Silver Saddle. Building permits have been issued to properties located along Silver Saddle Road less than ten years ago. In every instance, building permits and subdivision approvals were approved without requirement for supplemental improvement to Silver Saddle Road even though the 1981 Land Use Development Code specified 20-ft travel lanes as the development standard for subdivisions and other boundary line adjustment derived neighborhood planning.

County staff estimates that one or two sections of Silver Saddle Road may involve slopes with 12-15 percent grades. To meet the SLDC's minimum grade requirement of 9 percent, an extensive excavation burden would be imposed on the Applicants. Such a project would involve significant re-contouring and re-grading of slopes within *and outside* of the platted 50-ft ROW corridor. It appears that the existing culverts would need to be replaced and, should the steep bank be cut into either a rock or gabion retaining wall would need to be built. The visual impact, erosion risks and loss of

NIBA-28

vegetation from such a project would be destructive to the escarpment, as well as prohibitively expensive to engineer, construct and re-vegetate.

According to recent contractor estimates, the *combined cost* of widening and re-grading Silver Saddle to meet SLDC standards could exceed \$350,000. At this level of investment the financial burden associated with improving Silver Saddle would impose an unfair cost on a relatively small number of innocent property owners.

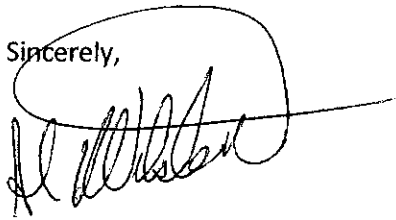
If the County rejects the Applicants' request, a dramatic precedent could be established; one that would impact hundreds (perhaps thousands) of property owners throughout Santa Fe county with road redevelopment requirements that, for many, would be impossible to fulfill.

Rather than retroactively apply offsite development responsibilities to properties that have been legally platted for 3-26 years, I respectfully request that no new road improvement requirements be mandated, and that residential building permits be available to all properties on Silver Saddle without special condition or limitation.

We encourage the Planning Commission to grant approval for a variance to Section 7.1.11 of the SLDC so as to allow the Properties to be eligible for future building permits without obligation for significantly widening and re-grading the slope of Silver Saddle Road.

Thank you for allowing me to present my views in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Al Webster', written over a horizontal line.

Al Webster
20 Silver Saddle
Lamy, NM
87540

NBA-29