

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: August 24, 2017

TO: SLDC Hearing Officer

FROM: John M. Salazar, Development Review Specialist Sr. *JMS*

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

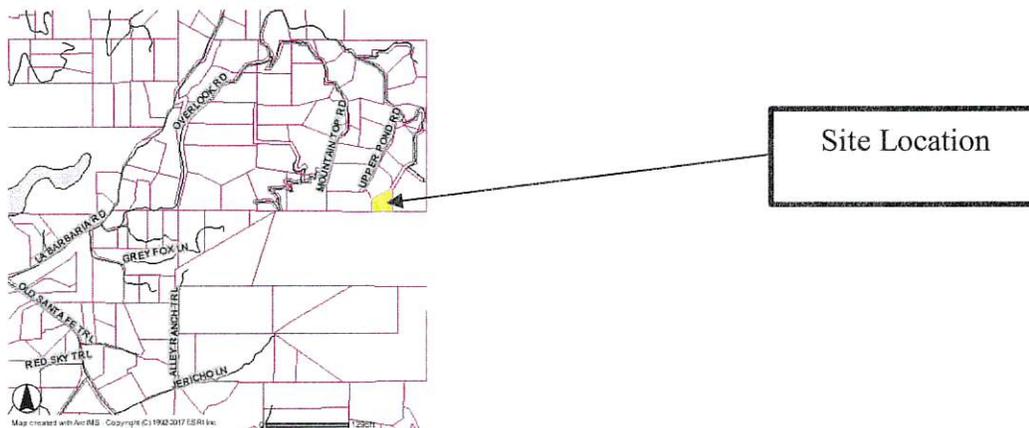
FILE REF.: CASE # V 17-5200 W. Gordon Harris Variances

ISSUE:

W. Gordon Harris, Applicant, Sommer, Karnes & Associates, LLP, Agent, request a variance of Ordinance No. 2016-9, the Sustainable Land Development Code Chapter 7, Section 7.11 Road Design Standards, Table 7-13 Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow a roadway to be less than 20' in width and to allow the roadway to exceed a 9% grade. An additional variance is being requested of Chapter 7, Section 7.17.9.3 Height to exceed thirty feet on land that has a natural slope of fifteen percent or greater.

The property is located within The Overlook Subdivision at 191 Overlook Rd. via La Barabaria Rd. within Section 16, Township 16 North, Range 10 East (Commission District 4), SDA-2.

Vicinity Map:



NBC-1

SUMMARY:

The Applicant is the owner of the property at 191 Overlook Road as indicated by the warranty deed recorded in the records of the Santa Fe County Clerk on November 25, 1997, in Book 1432, Pages 717-718. The Applicant is requesting a variance to allow a roadway to be less than 20' in width as certain areas along Overlook Road are only 14' wide, to allow the roadway to exceed a 9% grade as there are multiple areas along Overlook Road which exceed 15% due to the mountainous terrain and a height variance to exceed thirty feet on land that has a natural slope of 15% or greater. The existing residence is a multi-level home which steps down and was permitted in 1991. The proposed location for the new garage is an existing leveled off area on the North elevation where the Applicant currently parks however it is stepped down from the existing residence.

The property at 191 Overlook Road consists of 2.6 acres within the vicinity of La Barbaria Road in the Residential Fringe zoning district.

The variances sought by the Applicant are regarding Chapter 7, Table 7-13 Rural Road Classification and Design Standards (SDA-2 and SDA-3) and Chapter 7, Section 7.17.9.3 Height.

The Applicant's agent states that the Overlook Subdivision is a legacy development with internal roads that do not meet width or slope requirements of the SLDC. They continue to state that the existing roads cannot be brought into conformance due to the steep and mountainous conditions of the Overlook Subdivision. Overlook Subdivision was created in 1975 before any road design standards existed. The roads throughout the subdivision vary in width from 14' to 23'. The road grade exceeds 15% in various locations as well. These conditions have been triggered due to the development permit request for an attached garage addition.

The Applicant is proposing a single-story garage connected to the lowest part of the existing home. The connection is made by a stairway from the garage to a walkway above the roof of the garage and connected to the existing deck on the residence. Land Use Staff has indicated that the connection to the existing residence creates the need for a variance as the total height of the proposed structure would measure 43' 11". The allowable height under the SLDC is 30 feet from the highest point of the structure to the lowest point at natural or finished grade on land that has a natural slope of 15% or greater. The current height of the multi-level residence is 36' 7" and was permitted in 1991.

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

Chapter 7, Table 7-13 Rural Road Classification and Design Standards (SDA-2 and SDA-3) (Exhibit 5)

Chapter 7, Section 7.17.9.3.1 Height (Exhibit 6)

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.

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 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.

The Applicant's Agent addresses the Variance Criteria below as followed and Staff provides its interpretation of how the proposal meets or fails to meet the variance criteria:

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

Applicant's Response for Access Roads:

The road in this legacy development would not be able to meet the SLDC width and slope requirements, as the development has existed for decades before the SLDC standards were adopted. The public interest in this matter relates to the accessibility mainly for emergency vehicles. The density of the development is not being increased by the addition of a garage. As noted above, it is not possible to bring the roadways into conformance, but the variance request is not contrary to the public interest because the request does not increase the burden that already exists for emergency service vehicles.

Staff's Response for Access Roads:

The Road Design Standards have been created to provide for the safety of vehicular traffic while providing safe and efficient access to the properties. Per Table 7-13, a Local road requires two 10' lanes with a 50' right of way and a 3" minimum of aggregate basecourse. Overlook Subdivision was created in 1975 before any road standards had been imposed by Santa Fe County however Chapter 7, Section 7.11.11.1.4 states for such instances: When a tract to be developed borders an existing road having a right-of-way insufficient to conform to the minimum standards required by these regulations, which right-of-way will be used by the proposed development, sufficient right-of-way shall be platted, and dedicated or reserved in such a way as would make the resulting right-of-way or road conform with the requirements of this section. The width of 14' is only sufficient for a one way driveway per Code and does not provide adequate access. In addition, a 15% grade exceeds allowable grade requirements and emergency vehicles may not be able to access the property.

Applicants Response for Height:

The height variance will not allow for an increase in the height of the highest part of the home; the top of the home will remain at the same height, and the only change will be to lower part of the structure. Height limitations are imposed for the purpose of limiting the visibility of structures. The request for the garage attached to the lowest part of the home does not increase visibility of the home from any location. The public interest in limiting the visibility of development is persevered because the structure will not be any more visible.

Staff's Response for Height:

The Code states: 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.

Although the residence already exists, the proposed garage addition will exceed the 30 foot height limit by nearly 14 feet when viewing the structure from the North elevation. The existing residence was permitted in 1991 and has a height of 36 feet, 7 inches.

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 Response for Access Roads:

The Overlook Subdivision is in a steep and mountainous region of the county. The grades of the existing roadways are an extraordinary condition of the property, which makes any normal residential use of the property (like having a garage), without the variance- impossible. This will result in practical difficulties and an undue hardship on Mr. Harris.

Staff's Response for Access Roads:

Chapter 7, Section 7.11.2 states: "Rural road standards shall apply to all roads within SDA-2 and SDA-3. Local roads serving a major subdivision, multifamily development or non-residential use over 10,000 sq. ft. in SDA-2 and SDA-3 may be required to provide paving, sidewalks or bike lanes for continuity if existing have this level of improvement." The roads built within the Overlook Subdivision were constructed pre-code however it does not negate the fact that the current standards have been put in place to allow the Fire Department better access when responding to emergency situations and to make roads safer when multiple vehicles are traveling on non-conforming roads.

Applicant's Response for Height:

The property is in a steep and mountainous region of the county. The slopes on the lot are an extraordinary condition of the property, which make the addition of a garage in any other location practically impossible to incorporate into the existing development on the property. Any attempt to relocate the proposed garage will result in an inordinate, unnecessary amount of difficult grading (cuts through solid rock) and will increase the visibility of the proposed structure. This will result in practical difficulties and an undue hardship for Mr. Harris.

Staff's Response for Height:

Should the garage not been connected to the existing residence, a variance would not be required. Since the Applicant is proposing to connect the two structures with a staircase, it would be considered one structure thus resulting in a total height of 43' 11". Staff had shared this information with the Applicant and suggests the garage be constructed as a separate structure.

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

Applicant's Response for Access Roads and Height:

The SLDC is designed to specifically provide protection of environmental, cultural, historical and archeological resources, lessening of air and water pollution, assurance and conservation of water resources, prevention of adverse climate change, promotion of sustainability, green development, and to provide standards to protect from adverse public nuisance or land use effects and impacts resulting from public or private development within the County.

Staff's Response for Access Roads:

The regulations within the SLDC are designed to provide for the safety of both vehicular and pedestrian traffic as well as safe and efficient access to property while ensuring that building projects are planned, designed, constructed, and managed to minimize adverse environmental impacts. The width of 14' along certain areas of Overlook Road is only sufficient for a one way driveway per Code and does not provide adequate access. In addition, a 15% grade exceeds allowable grade requirements and emergency vehicles may not be able to access the property.

Staff's Response for Height:

Full view from the Northern elevation of the residence would be 43'11" instead of the 30' allowed by Code. The location for the proposed garage would increase visibility by nearly 14'.

As required by the SLDC, the Applicants presented the Application to the Technical Advisory Committee (TAC) on May 18, 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 August 9, 2017. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on August 9, 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 June 23, 2017.

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.

Staff recommends denial of a height variance to exceed thirty feet on land that has a natural slope of 15% or greater and recommends that the Applicant construct an unattached garage which would not require a variance.

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

1. The Applicant shall obtain a development permit.
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 October 19, 2017.

EXHIBITS:

1. Applicants Request
2. Site Plan
3. Proposed Plans
4. Aerial of Site
5. Chapter 7, Table 7-13 Rural Road Classification and Design Standards
6. Chapter 7, Section 7.17.9.3 Height
7. Chapter 4, Section 4.9.7.4, Variance Review criteria
8. Noticing

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Of Counsel

June 23, 2017

VIA HAND DELIVERY

Penny Ellis Green
Land Use Administrator
Santa Fe County
102 Grant Avenue
Santa Fe, New Mexico 87501

**Re: Variance Requests of Gordon Harris
191 Overlook, Santa Fe, New Mexico**

Dear Ms. Ellis Green:

This letter is delivered in connection with the variance application for our client, Mr. Gordon Harris, who is the owner of the real property known as 191 Overlook Road, which is in the Overlook I subdivision in Santa Fe County.

Mr. Harris requests two variances: (1) to exceed the allowable height of the structures on the property and (2) to vary the requirement that he make offsite road improvements to Overlook Road with respect to width and slope of required access roads. We here address the variance criteria for both variances.

As shown in the plans enclosed with this letter, Mr. Harris proposes to add a single-story garage connected to the lowest part of his existing home. The connection is made by a stairway from the garage to a walkway above the roof of the garage and connected to the existing deck on the home. Santa Fe County Land Use staff has indicated that it is the connection that creates the need for a variance – if the connection was not proposed, no variance would be necessary. With the connection, the total height of the structure is 36'7", and the allowable height under the SLDC is 30 feet. The proposed structure will be 43'11", and therefore, requested variance to the height limitation is 13'11". In essence, Mr. Harris proposes to add just over seven feet (7") to the overall, existing height.



NBC -7

SOMMER, KARNES & ASSOCIATES, LLP

Ellis Green, Penny

June 23, 2017

Page 2 of 4

Additionally, as you know, this request to add a garage triggers the SLDC's roadway requirements for offsite, access roads. Overlook Subdivision is a legacy development, with internal roads that do not meet SLDC's width or slope requirements and cannot be made to conform because of the steep and mountainous conditions of the Overlook.

Section 4.9.7 provides as follows:

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.

The following addresses each of the foregoing criteria for each variance requested.

A. Criterion No. 1 -- The request is not contrary to the public interest.

1. Height Variance. The height variance will not allow for an increase in the height of highest part of the home; the top of the home will remain at the same height, and the only change will be to lower part of the structure. Height limitations are imposed for the purpose of limiting the visibility of structures. The request for the garage attached to the lowest part of the home does not increase the visibility of the home from any location. The public interest in limiting the visibility of development is preserved because the structure will not be any more visible.
2. Access Roads. The road in this legacy development would not be able to meet the SLDC width and slope requirements, as the development has existed for decades before the SLDC standards were adopted. The public interest in this matter relates to the accessibility mainly for emergency vehicles. The density of the development is not being increased and so the burdens upon the emergency services are not increased by the addition of a garage. As noted above, it is not possible to bring the roadways into conformance, but the variance request is not contrary to the public interest because the request does not increase the burden that already exists for emergency service vehicles.

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Ellis Green, Penny

June 23, 2017

Page 3 of 4

B. Criterion No. 2. The variance request is due to extraordinary and exceptional situations or conditions of the property and the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on Mr. Harris.

1. Height Variance. The property is in a steep and mountainous region of the county. The slopes on the lot are an extraordinary condition of the property, which make the addition of a garage in any other location practically impossible to incorporate into the existing development on the property. Any attempt to relocate the proposed garage will result in an inordinate, unnecessary amount of difficult grading (cuts through solid rock) and will increase the visibility of the proposed structure. This will result in practical difficulties and an undue hardship on Mr. Harris.
2. Access Roads. The Overlook Subdivision is in a steep and mountainous region of the county. The grades of the existing roadways are an extraordinary condition of the property, which make the any normal residential use of the property (like having a garage)– without the variance – impossible. This will result in practical difficulties and an undue hardship on Mr. Harris.

C. Criterion No. 3 -- The spirit of the SLDC is observed and substantial justice is done.

The spirit of the SLDC is captured in the following statement found in the SLDC:

The SLDC is designed to specifically provide protection of environmental, cultural, historical and archeological resources, lessening of air and water pollution, assurance and conservation of water resources, prevention of adverse climate change, promotion of sustainability, green development, and to provide standards to protect from adverse public nuisance or land use effects and impacts resulting from public or private development within the County.

The variances requested by Mr. Harris observes these expressed purposes of the SLDC. Specifically, Mr. Harris proposes the addition of a single-story garage on the lowest part of this property in an area that is already graded. The proposal minimized the impact of the garage from a visual and environmental standpoint. Further, it does not intensify the existing residential impact on the property, i.e., no additional residents or occupants will be added. The variance request observes the purposes of the SLDC as expressed above, while allowing Mr. Harris to make a normal and typical use of his home and property. It is fair and just to grant the variance.

SOMMER, KARNES & ASSOCIATES, LLP

Ellis Green, Penny

June 23, 2017

Page 4 of 4

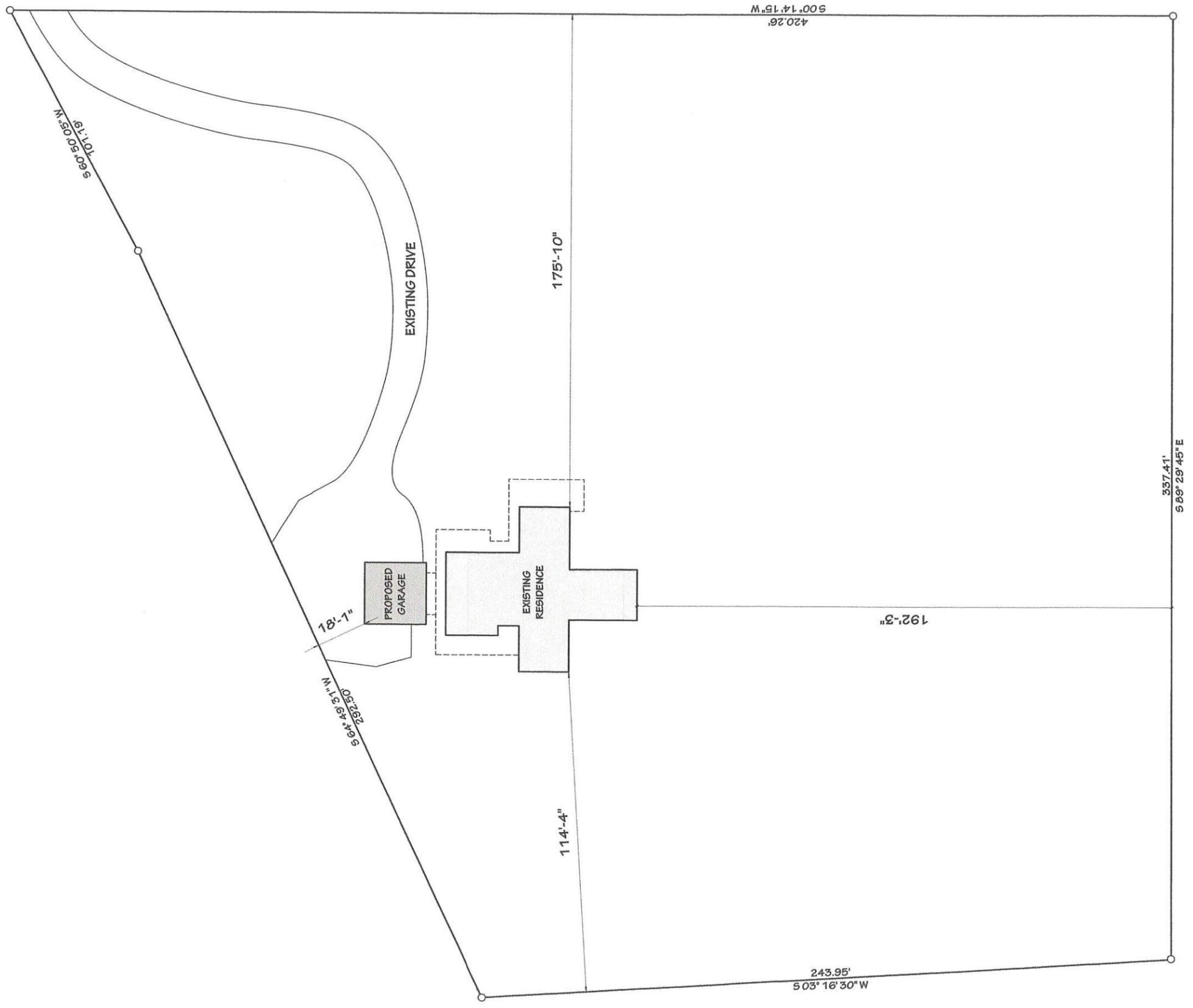
Please let us know if further information is needed.

Sincerely,

A handwritten signature in blue ink that reads "Karl H. Sommer". The signature is written in a cursive style with a long horizontal flourish at the end.

Karl H. Sommer

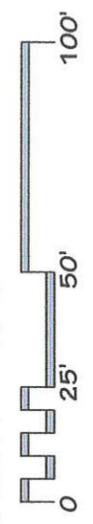
cc: Gordon Harris and Will McDonald



SITE PLAN



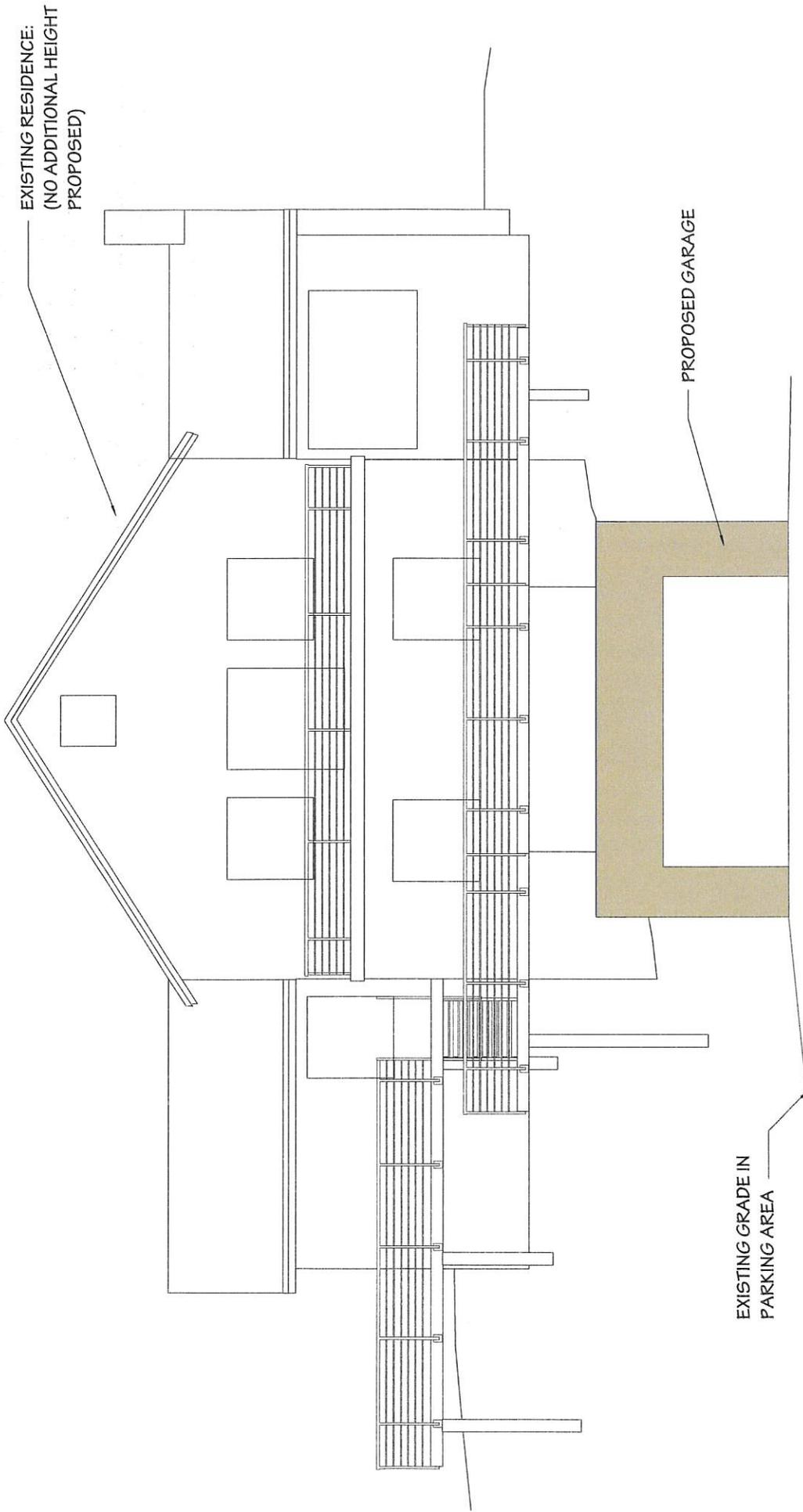
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HARRIS RESIDENCE
191 Overlook Road



NBC-11



191 Overlook Road NOTE ON HEIGHT VARIANCE:

SANTA FE COUNTY REQUIRES A HEIGHT VARIANCE TO BUILD PROPOSED GARAGE BECAUSE IT WILL ADD TO THE OVERALL, TOP-TO-BOTTOM, HEIGHT OF THE STRUCTURE.

CURRENT CODE ALLOWS 30 FEET MAXIMUM.

THE HEIGHT OF THE EXISTING RESIDENCE WILL BE UNCHANGED.

PLEASE CONTACT JOHN SALAZAR AT SANTA FE COUNTY LAND USE DEPARTMENT IF YOU HAVE QUESTIONS:

(505)986-6229

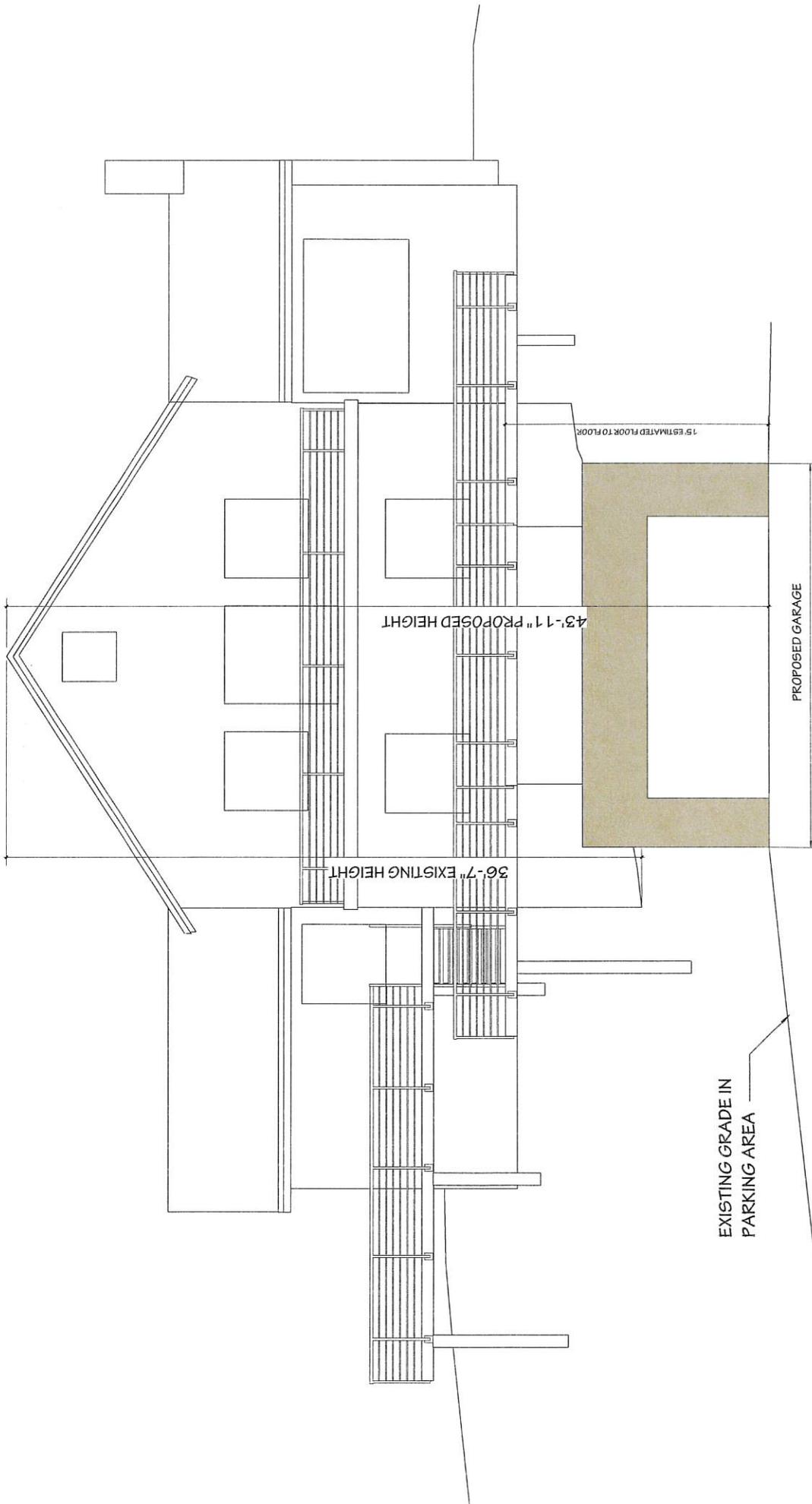
jmsalazar@santafecountynm.gov

PROPOSED NORTH ELEVATION

Scale: 1/8" = 1'-0"

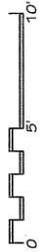


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PROPOSED NORTH ELEVATION

Scale: 1/4" = 1'-0"



EXISTING GRADE IN
PARKING AREA

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



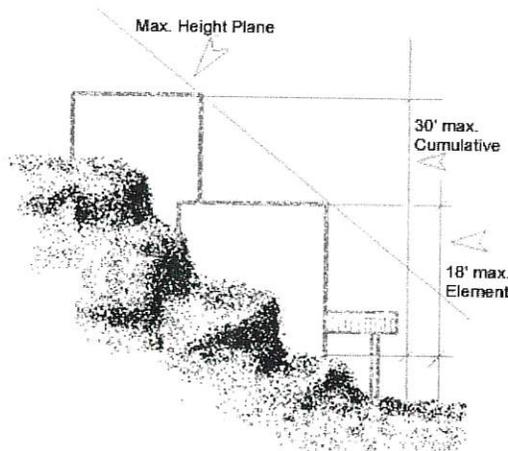
6. The finished floor elevation of any structure built on a natural slope between fifteen percent (15%) and thirty percent (30%) shall not exceed five feet above the natural grade at any point.

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, windows, walls and facade colors visible from adjacent properties or from arterial or collector roads shall be muted and of non-reflective or non-glossy materials with a Light Reflective Value (LRV) of less than 40



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;

THE SANTA FE
NEW MEXICAN
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LEGAL #83026

CASE # V 17-5200 W.
Gordon Harris
Height and Off-Site
Road Improvements
Variances

NOTICE OF PUBLIC
HEARING

Continued...

Notice is hereby given that a public hearing will be held to consider a request by W. Gordon Harris, Applicant, Sommer, Karnes & Associates, LLP, Agent, for a variance of the Sustainable Land Development Code Chapter 7, Section 7.11 Road Design Standards, Table 7-13 Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow a roadway to be less than 20' in width and to allow the roadway to exceed a 9% grade. An additional variance is being requested of Chapter 7, Section 7.17.9.3 Height to exceed thirty feet on land that has a natural slope of fifteen percent or greater. The property is located within The Overlook Subdivision at 191 Overlook Rd. via La Barabaria Rd. within Sections 16, Township 16 North, Range 10 East (Commission District 4).

A public hearing will be held in the County Commission Chambers of the Santa Fe County Courthouse, corner of Grant and Palace Avenues, Santa Fe, New Mexico on the 24th day of August 2017, at 3:00 p.m. on a petition to the Santa Fe County Hearing Officer and on the 19th day of October 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.

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EXHIBIT

8