

Daniel "Danny" Mayfield
Commissioner, District 1
Miguel M. Chavez
Commissioner, District 2
Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4
Liz Stefanics
Commissioner, District 5
Katherine Miller
County Manager

DATE: August 13, 2013

TO: Board of County Commissioners

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

VIA: Penny Ellis-Green, Land Use Administrator *PEG*
Vicki Lucero, Building and Development Services Manager *VL*
Wayne Dalton, Building and Development Services Supervisor *WD*

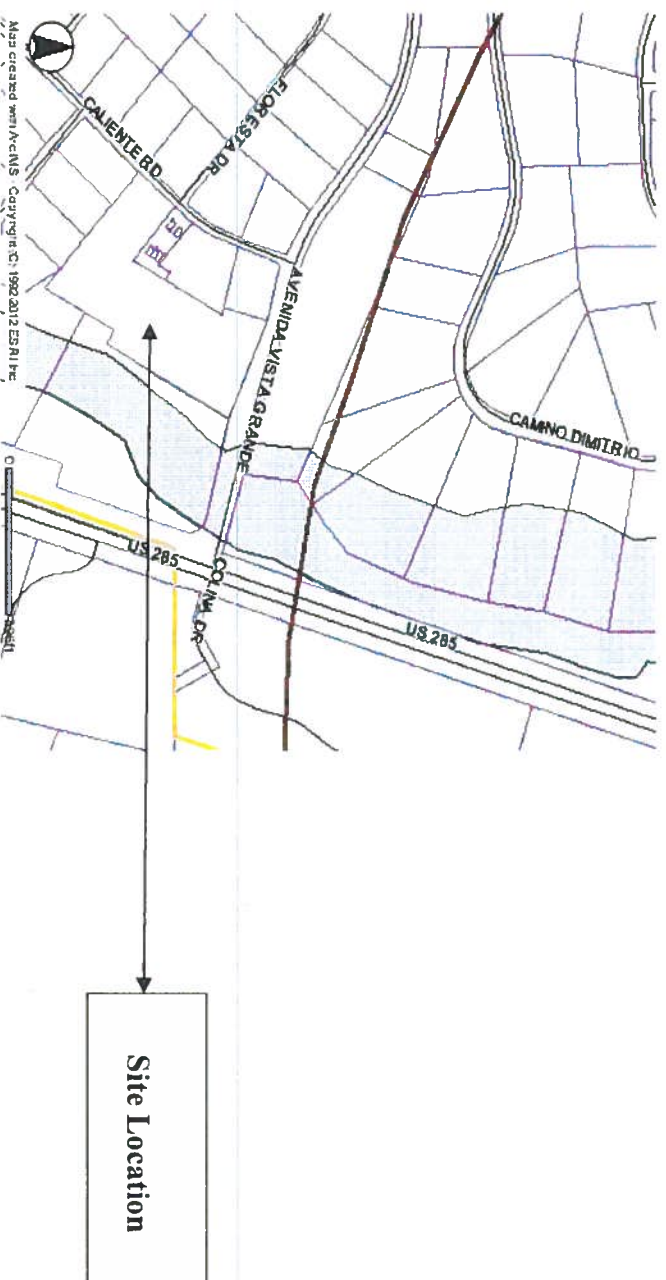
FILE REF.: BCC Case # MIS 13-5220 Pineda, LLC Liquor License

ISSUE:

Pineda, LLC, D/B/A La Plancha De Eldorado, Applicant, Request Approval Of A Restaurant Beer And Wine Liquor License To Allow Beer And Wine To Be Served With Meals.

The Property Is Located At 7 Caliente Road, #AA, in the vicinity of Eldorado, within Section 16, Township 15 North, Range 10 East, (Commission District 5).

Vicinity Map:



SUMMARY:

The Applicant requests approval of a Restaurant Beer and Wine Liquor License, to be located within the La Tienda at El Dorado shopping center within the existing La Plancha En Eldorado restuarant. La Plancha En Eldorado will not have a bar however they intend to serve beer and wine with meals. The Applicant will be expanding the restaurant from 4,000 to 6,000 square feet. On November 21, 2002 the County Development Review Committee approved the Final Development Plan for this site which allowed 6,000 square feet of floor area to be used as a Pub/restaurant.

The State Alcohol and Gaming Division granted preliminary approval of this request in accordance with Section 60-6B-4 NMSA of the Liquor Control Act. Legal notice of this request has been published in the newspaper. The Board of County Commissioners is required to conduct a public hearing on the request to grant a Restaurant Beer and Wine Liquor License at this location.

This Application was submitted on July 17, 2013.

Growth Management staff has reviewed this project for compliance with pertinent Code requirements and finds the following facts to support this submittal: Ordinance No. 2005-08 designates this site as a Village Mixed Use Sub-district which allows restaurants serving liquor as a permitted use; the County Development Review Committee approved the Final Development Plan for the La Tienda at Eldorado Shopping Center which allowed restaurants and bars as a permitted use; the Applicant has met the State of New Mexico requirements for noticing, distance from schools and churches.

APPROVAL SOUGHT: Approval of a Restaurant Beer and Wine Liquor License.

GROWTH MANAGEMENT AREA: El Centro, SDA-2

AGENCY REVIEW:

<u>Agency</u>	<u>Recommendation</u>
NM Alcohol & Gaming	Preliminary Approval
Distance from nearest Church – 425 feet/School – 1 mile.	

STAFF RECOMMENDATION: Approval of a Restaurant Beer and Wine Liquor License to be located at 7 Caliente Road, Building AA.

EXHIBITS:

- 1- Letter of Intent
- 2- Zoning Statement
- 3- Site Plan
- 4- Alcohol and Gaming Division Letter of Preliminary Approval
- 5- Aerial of Site
- 6- County Business License
- 7- ED Permit

La Plancha de Eldorado
7 Caliente Rd
Santa Fe, NM 87508

505-466-2060

To: Santa Fe County Land Use
Re: Beer and wine permit

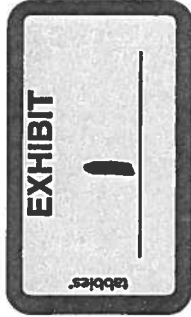
La Plancha is a full service restaurant in Eldorado. It have been open for three years. It currently serves beer and wine.

La Plancha is open seven days a week.

La Plancha is applying for a new beer and wine lisenace to enlarge the serving area to include the entire building and both patios.

We often have special events and would like to enlarge our serving hours to 11am – Midnight Monday through Saturday, and 12PM – Midnight on Sunday.

Thank you..



Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

May 14, 2013

La Plancha En Eldorado
Building AA, 7 Caliente Road
Santa Fe, New Mexico 87508

Re: Zoning Statement for La Plancha En Eldorado within the La Tienda at Eldorado,
located at 7 Caliente Road.

Mr. Juan Pineda:

This office has been asked to provide a zoning statement with respect to the above
referenced property.

The zoning for this property is regulated by the US 285 South Highway Corridor Zoning
District (Ordinance No. 2005-08). This Ordinance establishes the designated zoning for
the property as a Village Mixed Use Sub-district and specifies that restaurants serving
liquor are a permitted use.

On November 21, 2002 the County Development Review Committee approved the Final
Development Plan for this site which allowed 6,000 square feet of floor area to be used as
a Pub/restaurant. Therefore the expansion to the adjoining area of La Plancha En
Eldorado, not to exceed 6,000 square feet in total area including the existing area, is
allowed.

If you have any questions contact me at 986-6225.

Sincerely,

Vicki Lucero
Building and Development Services Manager

Cc: Jose E. Larrañaga
Commercial Development Case Manager



Google

Site Plan -
Parking, Traffic, Roads

To see all the details that are visible on the screen, use the "Print" link next to the map.

EXHIBIT
3





New Mexico Regulation and Licensing Department
ALCOHOL AND GAMING DIVISION

Toney Anaya Building • 2550 Cerrillos Road • Santa Fe, New Mexico 87505
(505) 476-4875 • Fax (505) 476-4595 • www.rld.state.nm.us

July 10, 2013

Certified Mail No.: 7003 2260 0006 7453 4450

Susana Martinez
GOVERNOR

J. Dee Dennis, Jr.
SUPERINTENDENT

Mary Kay Root
DEPUTY
SUPERINTENDENT

James C. McKay
CHIEF GENERAL
COUNSEL

Jennifer M. Anderson
DIRECTOR

Jose E. Larrañaga

Commercial Development Case Manager
Building and Development Services

Santa Fe County
102 Grant Avenue
Santa Fe, NM, 87504

Re: License / Appl. No.: Appl. #A-855998
Applicant Name: Pineda, LLC
Doing Business As: La Plancha De Eldorado
Proposed Location: 7 Caliente Road, #AA
Santa Fe, NM 87508

ATTENTION: Department or person responsible for conducting or preparing the public hearing for liquor license transfers or issuance of new liquor licenses.

Greetings:

The Director of the Alcohol and Gaming Division has reviewed the referenced Application and granted Preliminary Approval; it is being forwarded to you in accordance with Section 60-6B-4 NMSA of the Liquor Control Act.

Alcohol and Gaming Division
(505) 476-4875
Boards and Commissions Division
(505) 476-4646
Construction Industries Division
(505) 476-4746
Financial Institutions Division
(505) 476-4885
Manufactured Housing Division
(505) 476-4770

Securities Division
(505) 476-4580

Administrative Services Division
(505) 476-4846

Within forty-five (45) days after receipt of a Notice from the Alcohol and Gaming Division, the governing body shall hold a Public Hearing in the question of whether the department should approve the proposed issuance or transfer. Notice of the Public Hearing required by the Liquor Control Act shall be given by the governing body by publishing a notice of the date, time, and place of the hearing at least once a week for two consecutive weeks in a newspaper of general circulation within the territorial limits of the governing body, which requires that two weeks of publication must be satisfied before a hearing can be conducted. The notice shall include: (A) Name and address of the Applicant/Licensee; (B) The action proposed to be taken by the Alcohol and Gaming Division; and (C) The location of the licensed premises. The governing body is required to send notice by certified mail to the Applicant of the date, time, and place of the Public Hearing. The governing body may designate a Hearing Officer to conduct the hearing. A record shall be made of the hearing.

THE APPLICANT IS SEEKING A RESTAURANT BEER AND WINE LICENSE WITH ON PREMISE CONSUMPTION ONLY. PLEASE NOTE THAT THIS APPLICANT ALREADY HAS A RESTAURANT LIQUOR LICENSE AT THIS



6

LOCATION. THE APPLICANT INCREASED THE SQUARE FOOTAGE OF THE PREMISE BY 2,000 SQUARE FEET.

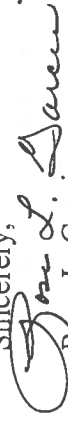
The governing body may disapprove the issuance or transfer of the license if:

- 1) The proposed location is within an area where the sale of alcoholic beverages is prohibited by the laws of New Mexico. (The governing body may disapprove if the proposed location is within 300 feet of a church or school unless the license has been located at this location prior to 1981 or unless the Applicant/Licensee has obtained a waiver from the Local Option District governing body for the proposed licensed premises).
- 2) The issuance or transfer would be in violation of a zoning or other ordinance of the governing body. The governing body may disapprove if the proposed location is not properly zoned. Because this office is in receipt of a Zoning Statement from the governing body, this is not a basis for disapproval. Attached is a copy of a Zoning Statement from the local governing body.
- 3) The issuance would be detrimental to the public health, safety, or morals of the residents of the Local Option District. Disapproval by the governing body on public health, safety, or morals must be based on and supported by substantial evidence pertaining to the specific prospective transferee or location and a copy of the record must be submitted to the Alcohol and Gaming Division.

Within thirty **(30)** days after the Public Hearing, the governing body **shall** notify the Alcohol and Gaming Division as to whether the local governing body has approved or disapproved the issuance of transfer of the license by signing the enclosed original Page 1 of the Application. The original Page 1 of the Application must be returned together with the notice of publication(s). **If the governing body fails to either approve or disapprove the issuance or transfer of the license within thirty days after the Public Hearing, the Director may give Final Approval to the issuance or transfer of the license.**

If the governing body disapproves the issuance or transfer of the license, it shall notify the Alcohol and Gaming Division within thirty **(30)** days setting forth the reasons for the disapproval. A copy of the Minutes of the Public Hearing shall be submitted to the Alcohol and Gaming Division with the notice of disapproval (Page 1 of the Application page noting disapproval).

Sincerely,



Rose L. Garcia

Hearing Officer

NM Regulation & Licensing Dept.

Alcohol & Gaming Division

Phone: 505-476-4552

Fax: 505-476-4595

Email: rosel.garcia@state.nm.us

Enclosures: Original Page 1 of Application

Copy of Page 2 of Application



5/17/13
Rose
DR

New Mexico Regulation and Licensing Department • Alcohol and Gaming Division
2550 Cerrillos Road • Santa Fe, New Mexico 87505 • (505) 476-4875 • Fax (505) 476-4595 • www.rld.state.nm.us/alcoholandgaming

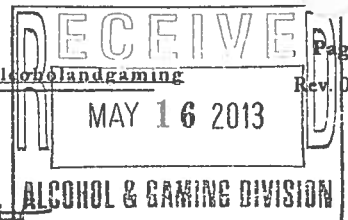
Page 1
Rev. 03/13

PAID

@ 200
R#1477520

LIQUOR LICENSE APPLICATION

Application fee - \$200.00 Fees are non-refundable.



State Liquor License # _____
Application Number 855998
Local option (AGD use) _____

Record Owner of Existing License PINEDA LLC
Current D/B/A Name LA PLANCHA DE EL DORADO
Current Premises Address 7 CALIENTE RD #AA SANTA FE NM
87508

Application is for: Change of Stock _____ Change of Officers/Directors _____ Transfer Ownership of Existing License _____ Transfer Ownership and Location _____ Transfer Location _____ Other _____
Issue New License ☒ Type of License being applied for BEER AND WINE

Applicant is: Individual _____ Corporation _____ Partnership (General or Limited) _____ Limited Liability Company ☒

NAME OF APPLICANT (company or individual) Pineda, LLC ADDRESS (including city, state, zip) 3926 Calle Daniel Santa Fe NM 87501 TELEPHONE NUMBER 505-577-9021

D/B/A name to be used: LA PLANCHA DE EL DORADO Phone number for licensed premises: 466-2060

Physical location where license is to be used: 7 CALIENTE RD #AA SANTA FE NM 87508
(Include street number / highway number / state road, city and county, state, and zip code)

Mailing address: 7 CALIENTE RD #AA SANTA FE NM 87508 #30608

Are alcoholic beverages currently being dispensed at the proposed location? Yes ☒ No _____ If yes, give license number and type 2013-4629 BEER/WINE

I, (print name) Juan Carlos Pineda, as (title) owner, being first duly sworn upon oath deposes and says: that he/she is the applicant or is authorized by the applicant to make this application; that he/she has read the same; knows the contents therein contained are true. Applicant(s) agree(s) that if any statements or representations herein are found to be false, the director may refuse to issue or renew the license or may cause the license to be revoked at any time.

must sign and date this form in the presence of a notary public.

Signature of Applicant [Signature]



OFFICIAL SEAL
Marcel Legendre
NOTARY PUBLIC
STATE OF NEW MEXICO

Date 4-11-2013

STATE OF NEW MEXICO COUNTY OF SANTA FE
SUBSCRIBED AND SWORN TO before me this 11 day of APRIL, 2013 by JUAN CARLOS PINEDA

Notary Public Marcel Legendre My Commission Expires 07-15-2015

Local Governing Body of: _____ (City or County). Hearing held on _____ 20____

Check one: Approved _____ Disapproved _____ City/County Official _____ (Signature & Title)

For Alcohol and Gaming Division Use Only

Approved _____ Disapproved _____ Director Approval _____ Date _____



PREMISES LOCATION, OWNERSHIP, AND DESCRIPTION

SS-60-GB-10

1. The land and building which is proposed to be the licensed premises is (check one):

Owned by Applicant _____ Leased by Applicant (attach copy of deed or lease) ☒ Other (provide details) _____

2. If the land and building are not owned by Applicant, indicate the following:

A. Owner(s) LA TIENDA AT ELBORADO LLC

B. Date and term of lease JULY 1st 2013, 3yr.

3. Premises location is zoned (example C-1) C-1

If the premises is zoned, attach zoning statement from local government giving location address and type of zone, stating whether alcoholic beverages are allowed at proposed location. If there is no zoning, attach confirmation from local government indicating there is no zoning.

4. Distance from nearest church *(Property line of church to licensed premises—shortest distance).

Miles/feet 425 Name of church ELBORADO COMMUNITY CHURCH Address/location of church 7 CALIENTE RD B-10

5. Distance from nearest school *(Property line of school to licensed premises—shortest distance).

Miles/feet 1 mile Name of school ELBORADO COMMUNITY SCHOOL Address/location of school 2 AVENIDA TOAECAN

6. Distance from military installation *(Property line of military installation to licensed premises—shortest distance.)

Yes ☒ No ☐ Name of Military Installation, circle one: Kirtland Air Force Base (Albuquerque) Holloman Air Force Base (Alamogordo), Cannon Air Force Base (Clovis), White Sands Missile Range (Las Cruces),

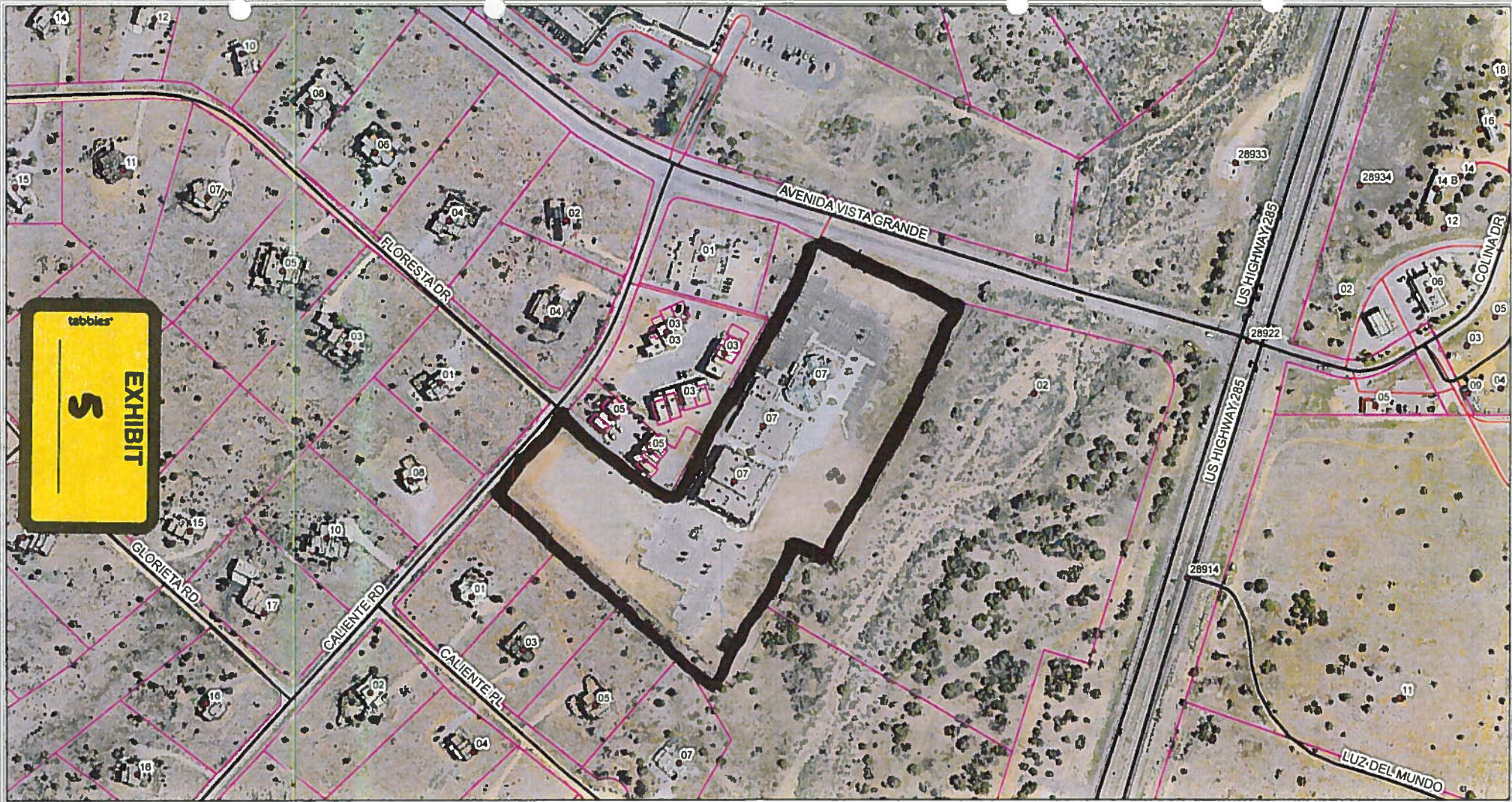
7. Attach, on a separate sheet, the detailed floor plan for each level (floor) where alcoholic beverages will be sold or consumed. Show exterior walls, doors, and interior walls. This will be the licensed premises. The floor plan should be no larger than 8 1/2 x 11 inches, and must include the total square footage of premises.

*If the distance is beyond 300 feet, but less than 400 feet, a registered engineer or licensed surveyor must complete a Survey Certificate showing the exact distance.

8. Type of Operation:

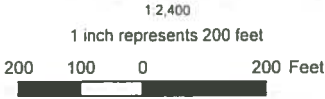
Lounge _____ Restaurant ☒ Package Grocery _____ Racetrack _____ Hotel _____ Other (specify) _____

Return this form to the Alcohol and Gaming Division, 2550 Cerrillos Road, Santa Fe, New Mexico 87505.



Legend

- ROADS
- DRIVEWAYS
- Parcels



2008 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.



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COMMERCIAL REGISTRATION

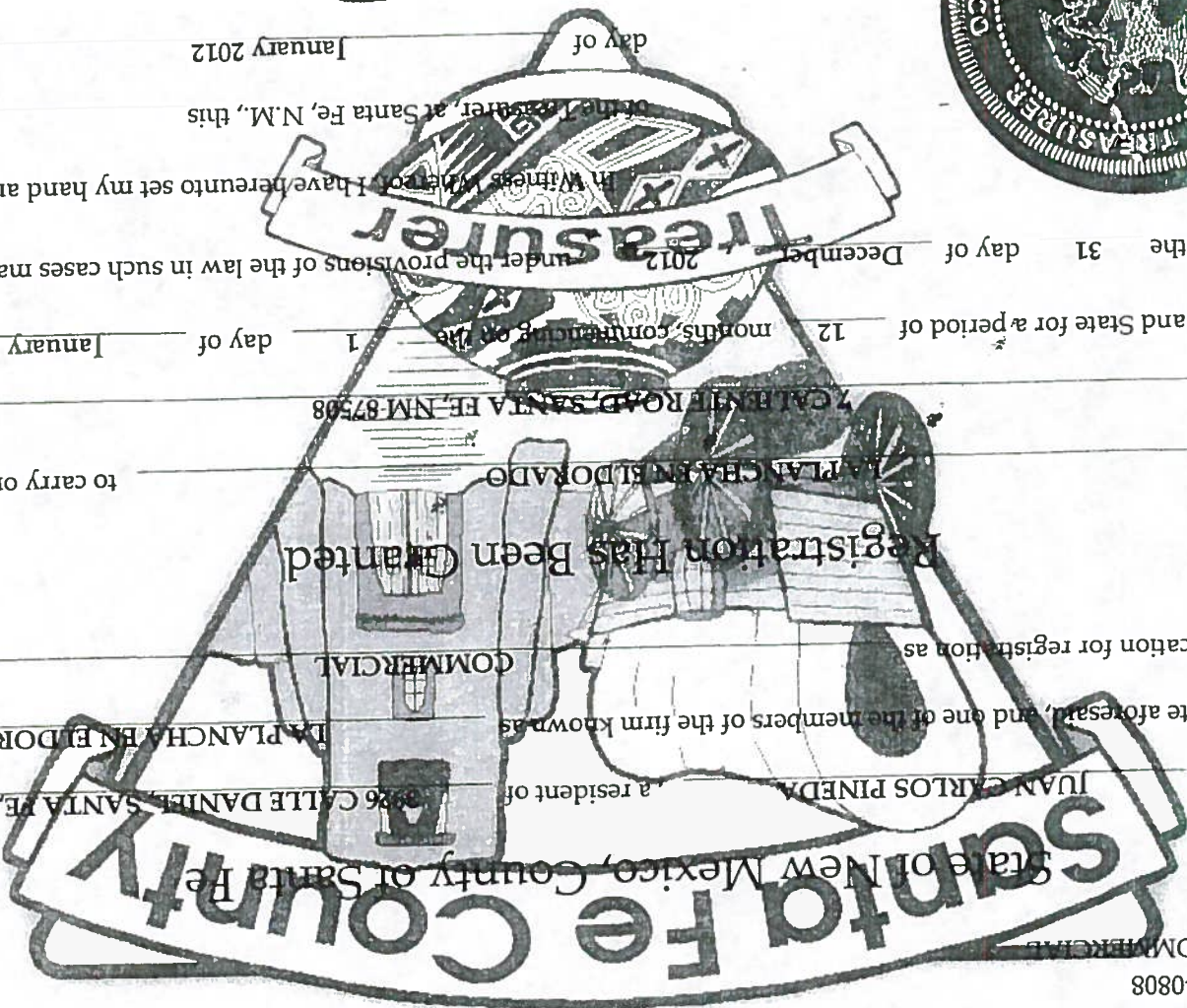
Registration No: 13412
Permit No: 09-0808
Permit Type: COMMERCIAL

WHEREAS, JUAN CARLOS PINEDA, a resident of 3026 CALLE DANIEL, SANTA FE, NM 87507
LA PLANCHA, BENDORADO
County and State aforesaid, and one of the members of the firm known as
COMMERCIAL
has made application for registration as
; therefore

to the said
LA PLANCHA, BENDORADO
to carry on said business at
7 CALLE RIVERA, SANTA FE, NM 87508
in said County and State for a period of 12 months, commencing on the 1 day of January, 2012
and ending on the 31 day of December 2012 under the provisions of the law in such cases made and provided.
In Witness Whereof, I have hereunto set my hand and affixed the seal
of the Treasurer, at Santa Fe, N.M., this 1 day of January 2012



Victor A. Montoya
SANTA FE COUNTY TREASURER





State of New Mexico
Environment Department

FOOD ESTABLISHMENT PERMIT

This is to certify that Lidia Pineda

Owner of: La Plancha de Eldorado

Is hereby granted a permit to operate a food establishment

At: 7 Caliente Road; Santa Fe, NM 87508

Type of Establishment: Food Service - Restaurant

Limitations or Restrictions: _____

Failure to maintain and operate the establishment in compliance with the Regulations (7.6.2 NMAC) may result in suspension or revocation of this permit by an authorized representative of this Department. This permit shall be renewed annually.

Date Issued: 30-JUN-13

Permit Number: 25780 - PRF20130001

Expiration Date: 30-JUN-14

Authorizing Official: _____

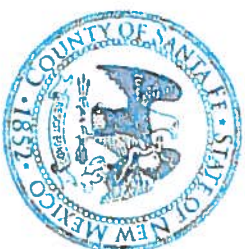
This permit is not transferable to another individual, establishment, or location.

for Jerome

This permit must be displayed in a conspicuous place.



Daniel "Danny" Mayfield
Commissioner, District 1
Miguel M. Chavez
Commissioner, District 2
Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4
Liz Stefanics
Commissioner, District 5
Katherine Miller
County Manager

DATE: August 13, 2013

TO: Board of County Commissioners

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

VIA: Penny Ellis-Green, Land Use Administrator *(Signature)*
Vicki Lucero, Building and Development Services Manager *(Signature)*
Wayne Dalton, Building and Development Services Supervisor *(Signature)*

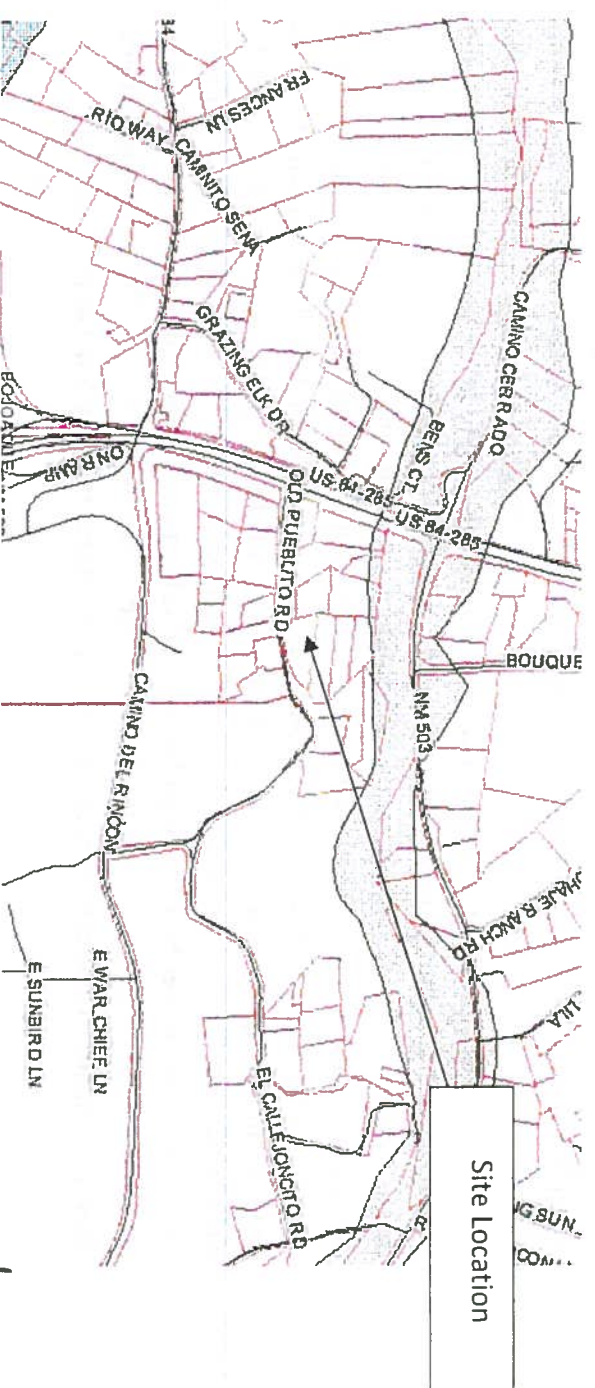
FILE REF.: CDRC CASE # V13-5140 Robert Garcia Variance

ISSUE:

Robert Garcia, Applicant, requests a variance of Ordinance No. 2008-5 (Pojoaque Valley Traditional Community District), § 12.5 (Density Standards) to allow two dwelling units on a proposed 1.46 acre lot and a variance of Article III, § 2.4.2b.3(a) (Road Access) to allow a road access width of less than twenty feet (20') to access three lots.

The property is located at 13A Old Pueblo Road (C.R. 84), in the vicinity of Pojoaque, within Section 7, Township 19 North, Range 9 East (Commission District 1).

Vicinity Map:



SUMMARY:

The Applicant requests a variance of Ordinance No. 2008-5 (Pojoaque Valley Traditional Community District), § 12.5 (Density Standards) to allow two dwelling units on a proposed 1.46 acre lot and a variance of Article III, § 2.4.2b.3(a) (Road Access) to allow a road access width of less than twenty feet (20') to access three lots.

The Applicant has submitted an Application for a Family Transfer Land Division to divide 2.212 acres into two lots. The proposed lots will consist of 0.75 acres and 1.46 acres. The Applicant intends to give his daughter the 0.75 acre parcel and the Applicant will retain the remaining 1.46 acre parcel.

There are currently two pole barns and two residences on the subject property, which the Applicant and the Applicants son currently reside. One of the dwelling units (mobile home) was permitted in 1990 (permit # 90-237). It appears that the Applicant has met the code requirements proving all structures on the property are legal non-conforming by providing an aerial photograph from 1975 showing all other existing structures on the property.

The property is located in the Pojoaque Valley Traditional Community District where the minimum lot size is 0.75 acres per dwelling unit. The proposed Family Transfer meets the requirements of the Code for lot size; however, the Applicant is requesting to allow the two existing residences to remain on the 1.46 acre lot. In order to meet the density requirements for having two dwelling units on one lot, the lot must consist of a minimum of 1.5 acres. Therefore, the Applicant needs a variance.

Article III, § 2.4.2b.3(a) (Road Access) requires a minimum width of twenty (20') feet for access to two lots and no less than thirty-eight (38') feet for access to three (3) or more lots. The Applicant requests a variance of Article III, § 2.4.2b.3(a) (Road Access) to allow the existing 18.5 foot wide driveway/access to remain to serve the proposed lots. The Applicant states that there is an underground irrigation ditch that bounds the right hand side of the access that prohibits the Applicant from widening the road. Article II, § 3 (Variances) of the County Code states: "Where in the case of proposed development, it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted condition or that these conditions would result in inhibiting the achievement of the purposes of the Code, the applicant may submit a written request for a variance." This Section goes on to state "In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified." **The variance criteria does not consider financial or medical reasons as extraordinary hardships**

This Application was submitted on May 9, 2013.
On June 20, 2013, the CDRC met and acted on this case, the decision of the CDRC was to recommend approval of the variances with conditions. (CDRC Minutes attached as Exhibit 2).

Growth Management staff have reviewed this Application for compliance with pertinent Code requirements and finds the project is not in compliance with County criteria for this type of request.

APPROVAL SOUGHT: Approval of a variance of Ordinance No. 2008-5 § 12.5 (Density Standards) of the Pojoaque Valley Traditional Community District, and Article III § 2.4.2b.3(a) (Road Access) of the Land Development Code.

GROWTH MANAGEMENT AREA: El Norte, SDA-2

HYDROLOGIC ZONE: Traditional Community of Pojoaque, minimum lot size per Code is 0.75 acres per dwelling unit.

FIRE PROTECTION: Pojoaque Fire District.

WATER SUPPLY: Private Well

LIQUID WASTE: Conventional Septic System

VARIANCES: Yes

AGENCY REVIEW:	<u>Agency</u>	<u>Recommendation</u>
	County Fire	Approved With Conditions

STAFF RECOMMENDATION: Denial of a variance of Ordinance No. 2008-5 § 12.5 (Density Standards) of the Pojoaque Valley Traditional Community District, and Article III § 2.4.2b.3(a) (Road Access) of the Land Development Code.

The recommendation of the CDRC was to recommend approval of the Applicant's request, with the following conditions:

1. Water use shall be restricted to 1 acre foot per year per lot. A water meter shall be installed for each lot. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's

Office (As per Article III, § 10.2.2 and Ordinance 2002-13).

2. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval (As per Article III § 2.4.2)
3. The Applicant must provide proof of permits or proof that the structures on the property are legal non-conforming. If the Applicant cannot provide proof that the structures are legal, then the Applicant must obtain After the Fact Permits (As per Article II, § 4.5.2b Article II, § 2).
4. The placement of additional dwelling units or Division of land is prohibited on the property (As Per Ordinance No. 2008-5 Section 12.5).
5. The Applicant shall comply with all Fire Prevention Division requirements at the time of plat review (As per 1997 Fire Code and 1997 Life Safety Code).

EXHIBITS:

1. Letter of request
2. June 20, CDRC Meeting Minutes
3. Ordinance No. 2008-5 §12.5 (Density Standards)
4. Article II, § 3 (Variances)
5. Article III § 2.4.2b.3(a) (Road Access)
6. Site Photographs
7. Site Plan
8. Aerial of Site and Surrounding Area
9. Fire Prevention Division Letter

ROBERT L. GARCIA

13A Old Pueblo Road, Santa Fe, NM 87506; 505-455-2548

May 8, 2013

Ms. Penny Ellis-Green, Code Administrator
Santa Fe County Land Development
102 Grant Avenue, PO Box 276
Santa Fe, New Mexico 87504-0276

Dear Ms. Ellis-Green:

Please accept this letter as our intent to request a variance of density to the Santa Fe County Land Development Code: Lot Size Requirement, Article 3 Section 10.

My wife and I own property at 13A Old Pueblo Road (CR84) in Pojoaque. I would like to do a family transfer land division to give my daughter, Norma Jean Valdez a piece of that property in a Small Lot Family Transfer.

Attached is the plat of survey EXC. 285, P.C. 368 for the property. I respectfully request a variance to the code to divide the 2.212 acre piece into two lots; one at .75 acres on the northern end of the property, which I intend to give to Norma; and the remaining 1.46 acres, on which my home and my son's home are placed on the southern end of the property.

In addition, I respectfully request a variance of the access requirement of 38' easement and 20' driving surface. I have measured the driving surface accessing my property and the measurements vary along the access road from 15' 6" to over 27' in spots. I have also measured County Road 84J (Old Pueblo Road) which is the road off of US84/285 and the driving surface there also varies, but at its widest measures 16'.

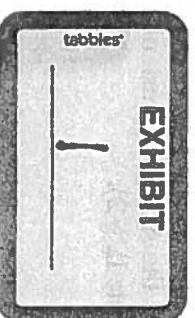
Also attached, as required are the following:

- Development Permit Application Form
- Rural Addressing Form
- Site Plan (Birds Eye View of Property)
- Recorded Warranty Deed #530308
- Recorded Survey Plat
- Well Permit (on Deborah Garcia's property)
- Proof of Taxes Paid on the Property for 2012
- Vicinity map labeling the residences in the vicinity (Birds eye view of property)
- Septic Permits are not included as the structures have been on the property for many years and I am unable to locate the permits.

Should you have any questions or require additional documentation or information, please feel free to contact me. Your favorable consideration is appreciated.

Sincerely,

Robert L. Garcia
Robert L. Garcia



C. CDRC CASE #V13-5140 Robert Garcia Variance, Robert Garcia, Applicant, Requests a Variance of Ordinance No. 2008-5 (Pojoaque Valley Traditional Community District), § 12.5 (Density Standards) to Allow Two Dwelling Units on a Proposed 1.46 Acre Lot and a Variance of Article III, § 2.4.2b.3(a) (Road Access) of the County Land Development Code to Allow a Road Access Width of Less Than Twenty Feet (20') to Access Three Lots. The Property is Located at 13A Old Pueblo Road (CR 84), in the Vicinity of Pojoaque, within Section 7, Township 19 North, Range 9 East, Commission District 1

Mike Romero read the caption and the staff report:

“The Applicant has submitted an Application for a Family Transfer Land Division to divide 2.212 acres into two lots. The proposed lots will consist of 0.75 acres and 1.46 acres. The Applicant intends to give his daughter the 0.75-acre parcel and the Applicant will retain the remaining 1.46-acre parcel.

“There are currently two dwelling units on the subject property. The structures consist of two residences and two pole barns, one of which is also used as a carport. Staff can find no evidence of permits for the existing structures on the property. The Applicant and the Applicant’s son currently reside in the existing dwelling units.

“The property is located in the Pojoaque Valley Traditional Community District where the minimum lot size is 0.75 acres per dwelling unit. The proposed Family Transfer meets the requirements of the Code for lot size; however, the Applicant is requesting to allow the two existing residences to remain on the 1.46-acre lot.

Mr. Romero stated staff is recommending denial of a variance of Ordinance No. 2008-5 § 12.5 (Density Standards) of the Pojoaque Valley Traditional Community District), and Article III § 2.4.2b.3(a) of the Land Development Code. If the decision of the CDRC is to recommend approval of the Applicant’s request, staff recommends imposition of the following conditions:

1. Water use shall be restricted to 1 acre-foot per year per lot. A water meter shall be installed for each lot. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk’s Office (As per Article III, § 10.2.2 and Ordinance 2002-13).
2. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval (As per Article III § 2.4.2)
3. The Applicant must provide proof of permits or proof that the structures on the property are legal non-conforming. If the Applicant cannot provide proof that the structures are legal, then the Applicant must obtain After the Fact Permits (As per Article II, § 4.5.2b Article II, § 2).



4. The placement of additional dwelling units or Division of land is prohibited on the property (As Per Ordinance No. 2008-5 Section 12.5).
5. The Applicant shall comply with all Fire Prevention Division requirements at the time of plat review (As per 1997 Fire Code and 1997 Life Safety Code).

Member Katz asked if the Fire Department was recommending approval. Mr. Romero said they were, subject to conditions, and added it could be considered a minimal easing of the code, lacking about 800 square feet to be in compliance. He said he was able to find a permit for one of the mobile homes.

Duly sworn, Robert L. Garcia said he felt his request was not unreasonable, but was opposed to the water metering and restrictions. He currently has a permit from the State Engineer for three acre-feet and is also under the Aamodt provisions. He stated ingress and egress is not an issue.

Mr. Garcia noted there was no permit for the main house since it has been there since at least 1913 when his mother was born there. He detailed evidence of the house being there for 100 years.

Chair Gonzales pointed out that the County imposes water restrictions on all applicants. Mr. Garcia said he well is pre-Aamodt and the use is not restricted to indoor only. He did not think it was reasonable for him to give up two acre-feet of water and have to go to the expense of metering the old house. Chair Gonzales noted with the two lots there would be two acre-feet total.

There was no one from the audience wishing to provide testimony.

Member Roybal said this case was similar to one last month. He did not feel the County had the right to take away existing water rights.

Member Katz said having water rights is one thing but if there is insufficient water everyone has to recognize that fact. He asked if this case was approved with the conditions would the water restrictions be binding on the applicant. Ms. Lucero said they would be.

Member DeAnda noted that the applicant could conceivably split the larger lot, making three lots each with one acre-foot.

Mr. Garcia said he had no intention of splitting that lot. He said if the lot doesn't have water it's worthless.

Member Roybal moved to grant the variance without the condition calling for water restrictions and metering. Member Anaya seconded.

Member Drobnis said he would only support the variance with conditions, noting that in his area people have to make do with a quarter acre-foot per year.

SFC CLERK RECORDED 07/19/2013

Member Roybal said water has always been an issue in the traditional communities and everyone cuts back in bad years. He reiterated he didn't like to see people losing rights.

Member Katz pointed out that during bad years when ditch water is not abundant there is recourse to the groundwater which is not renewable.

Mr. Garcia said he did not use his well to irrigate his fields. He did not want to be constrained to indoor use only, since he kept cattle and sheep. Ms. Lucero clarified that that was not the case; the one acre-foot was total use.

The motion to grant without water restrictions failed 2-5 with Members Anaya and Roybal voting in favor.

Chair Gonzales moved to grant the variance in CDRC CASE #V13-5140, the Robert Garcia Variance with staff conditions. The motion carried 7-0.

~~CDRC CASE # V/Z/PDP 13-5080 Windmill Water Variance, Master Plan & Preliminary Development Plan. Diana & Leon Richter, Applicants, Jim Siebert, Agent, Request Master Plan Zoning & Preliminary Development Plan Approval to Allow a Small Scale Commercial Use Consisting of a Domestic Water Supply Service. This Request Includes a Variance of Article VII, Section 6.4.1d (Requirements for Water Availability Assessments). The Applicant Also Requests That Final Development Plan be Approved Administratively. The Property is Located at 2042 Old US 66, Near the Town of Edgewood, within Section 34, Township 10 North, Range 7 East, Commission District 3 [Exhibit 1: Letters of Support]~~

Jose Larrañaga read the caption and the following staff report:

~~“The Applicants request Master Plan Zoning approval to allow a small-scale commercial use consisting of a domestic water supply service to be completed in two phases. The request also includes Preliminary Development Plan approval for Phase I and II. Phase I consists of a 2,200 square foot residence, a 1,064 square foot garage, a 100 square foot shed, a 1,188 square foot bottling plant, a 224 square foot office, a 5,000-gallon storage tank, a 50 square foot self-serve dispenser structure, a domestic well and a well registered with State Engineer as a commercial well. Phase II will consist of a 1,200 square-foot addition to the dwelling to be utilized as an office. The site is located within the Edgewood Traditional Community where commercial zoning may be approved. The Applicants request includes that the Final Development Plan, for Phase I and II, be reviewed and approved administratively.~~

~~“Windmill Water is currently operating under a Home Occupation Business License issued by Santa Fe County in 1995. The property is within the proposed~~

2.5 Zoning

In connection with the review of an application for a development permit with respect to matters described in the New Mexico Statutes concerning zoning, the procedures concerning zoning matters set forth in the New Mexico Statutes, as amended from time to time, shall apply in addition to the review procedures provided in the Code. The time limits established in this Article II may be extended if required, in order to comply with the procedures concerning zoning matters.

2.6 Subdivisions

In connection with review of an application for a development permit with respect to matters described in the New Mexico Subdivision Act, as it may be amended from time to time, the procedures for review provided for in Article V of the Code and the New Mexico Subdivision Act shall apply in addition to the review procedures provided in this Article II of the Code. The time limits established in this Article II shall be extended if required in order to comply with the procedures concerning subdivision matters.

2.7 Other Requirements

The time limits set forth in this Article II shall be extended in order to comply with other provisions of the Code providing for time limits in connection with reviews and requirements under the Code.

SECTION 3 - VARIANCES

3.1 Proposed Development

Where in the case of proposed development, it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A Development Review Committee may recommend to the Board and the Board may vary, modify or waive the requirements of the Code and upon adequate proof that compliance with Code provision at issue will result in an arbitrary and unreasonable taking or property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety. In arriving at its determination, the Development Review Committee and the Board shall carefully consider the opinions of any agency requested to review and comment on the variance request. In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified.

3.2 Variation or Modification

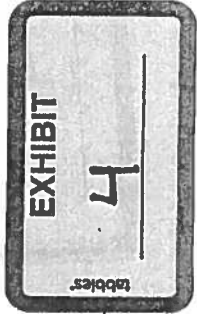
In no case shall any variation or modification be more than a minimum easing of the requirements.

3.3 Granting Variances and Modifications

In granting variances, and modifications, the Board may require such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified.

3.4 Height Variance in Airport Zones

All height variance requests for land located with approach, Transitional, Horizontal and Conical surfaces as described within Map #31 A, incorporated herein by reference, shall be reviewed for compliance with Federal Aviation Administration Regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the



effect of the proposal in the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship, and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, and will do substantial justice. Additionally, no application for variance may be considered by the County Development Review Committee unless a copy of the application has been furnished to the Airport Manager for advice as to the aeronautical effects of the variance. If the Airport Manager does not respond to the application within 15 days after receipt, the County Development Review Committee may act on its own to grant or deny said application. Any permit or variance granted may be so conditioned as to require the owner of the structure in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary.

History. 1980 Comp. 1980-6. Section 3.4 is new material by County Ordinance 1984-3, adding an administrative procedure to height variation requests in airport overlay zones.

**SECTION 4 - SPECIAL PROCEDURE FOR APPROVAL OF DEVELOPMENT ON
LOTS WHICH DO NOT MEET LOT SIZE REQUIREMENTS OF CODE**

4.1 Dwelling and Customary Accessory Structures

Dwelling and customary accessory structures may be erected on a lot which does not meet the lot size requirements of the Code, provided that:

- 4.1.1 The lot was in existence on the effective date of the Code (January 1, 1981) as demonstrated by the means listed in Section 4.4; or
- 4.1.2 The land is a lot which is part of a subdivision and the preliminary plat of the subdivision has been approved by the Board as of the effective date of the Code (January 1, 1981); or
- 4.1.3 The lot has been created by Small Lot Inheritance Transfer or Small Lot Family Transfer and the requirements of Section 4.3 of this Section are met.

4.2 Requirements of Code Not Involving Size of Lot

All other requirements of the Code including, but not limited to, building height, setback, use, design standards, environmental provisions, water restrictions, development, building and utility permits, and certificates of occupancy, as applicable, shall be met.

4.3 Small Lot Inheritance and Small Lot Family Transfer

Dwellings and customary accessory structures may be erected on a lot which does not meet size requirements of the Code and is being created by inheritance or family transfer, provided the definitions, restrictions and standards of this Section are met.

4.3.1 Purposes

- 4.3.1a To maintain local cultural values by perpetuating and protecting a traditional method of land transfer within families, especially within the traditional communities; and
- 4.3.1b To permit transfers of lots which do not meet the lot size requirements of the Code from grandparents, parents or legal guardians as a one time gift to a child or grandchild in order to provide a more affordable home site for these adult children.

which cannot meet the terrain management performance standards shall not be further subdivided or replatted in a manner which creates an additional number of non-conforming lots or parcels. Additionally, lot line adjustments shall not result in a conforming lot becoming non-conforming based on terrain management performance standards.

2. Reviews

(a) Lot Size Requirement Review.

The Code Administrator shall review the application for compliance with the density regulations in Article III, Section 10 of the Code. If the application is for a Small Lot Inheritance Transfer or a Small Lot Family Transfer, the lot size standards in Article II, Section 4 shall apply.

(b) Special District Review

The Code Administrator shall review the location of the lots indicated on the plat and, if a lot is located in a Special Review District, pursuant to Article VI of the Code, will inform the applicant of any additional submittals or reviews required and make the applicable review.

(c) Environmental Review

The Code Administrator shall inform the applicant of any additional submittals and make the reviews required under Article VII, Environmental Requirements.

(d) Other Reviews

For summary review subdivisions, the Code Administrator shall review the disclosure statement to determine whether the subdivider can fulfill the proposals contained therein, and whether the disclosure statement is consistent with this Code.

3. Required Improvements and Standards

(a) Roads and Access - On-site and Off-site

(1) Except as provided below in paragraphs (6) - (9) of this Subsection, all lots created under this Section shall be provided with adequate access for ingress and egress, utility service, fire protection, and emergency services whether by a road meeting county requirements constructed within an easement and utility easement or by direct access to a public right-of-way. All on and off-site roads shall meet the design standards for a local road as set forth in Appendix 5.B.3, except that the minimum width of any easement created for access purposes shall be no less than twenty (20) feet for access to two (2) lots and no less than thirty-eight (38) feet for access to three (3) or more lots. However, for off-site roads the Code Administrator may reduce the road easement width to no less than twenty (20) feet if adequate drainage control is provided and may allow the road surface to be hard packed dirt with a compaction of ninety-five percent (95%) of the maximum density. All roadways and access shall be subject to the provisions of Section 10.207 of the Uniform Fire Code and to the policy established by the County Fire Marshal regarding fire apparatus access roads under Section 10.207. Provision of easements may also be accomplished by contiguous access easements

EXHIBIT

5

along property line of adjacent parcels or lots which, when added together, provide the total required width.

- (2) Roads serving two (2) or fewer lots may be treated as driveways and do not have to be constructed until the time of building construction. The number of driveways accessing a public road shall be minimized. The use of shared driveways is encouraged
- (3) 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 Code requirements.
- (4) The maximum grade of built roads shall be eleven percent (11%). Installation of culverts, where applicable, shall be required at intersections of driveways with County roads.
- (5) Road Construction and/or Road Cut Permits must be obtained if road or driveway construction is to precede any other development on any lot.
- (6) Divisions of land for grazing or farming as identified in Article II, Section 2.3.1.a.ii(c) are exempt from on-site and off-site road requirements.
- (7) Divisions of land that create no parcel smaller than one hundred forty (140) acres as identified in Article II, Section 2.3.1.a.ii(e) are exempt from on-site and off-site road requirements, except when more than one (1) such parcel is created in an area of land, the Code Administrator may require on and off-site road improvements.
- (8) Other land divisions as listed in Article II, Section 2.3.1.a.ii. (a) through (h) may be exempt from road construction standards at the discretion of the Code Administrator.
- (9) In addition to the requirements of this Section, summary review subdivisions shall meet the road improvements of Article V, Section 5.5.6.

(b) Other Off-Site Improvements

If the Code Administrator determines that it is necessary for health, safety, or welfare reasons, the applicant may be required to construct improvements to existing off-site facilities or to construct planned facilities or portions of planned facilities which can provide relief to existing facilities. The purpose of requiring such improvements is to assure that such facilities which may be negatively impacted, either individually or cumulatively, by the addition of new development, will function efficiently. For the purposes of this Section, off-site facilities include but are not limited to, water systems and sewer systems.

(c) Special Provisions for Family Transfer Improvements.

Off-site improvement requirements do not apply to lots created by Family Transfer for the first lot per immediate family member, Small Lot Family Transfer, or Small Lot Inheritance Transfer provided that the recipient does not sell or transfer such lot for three years from the time the plat is recorded. For second and subsequent lots and for lots sold or transferred by the recipient prior to such three year period off-site improvement requirements of this Code shall be met at the time of sale. For Family Transfers to be exempt

from off-site road improvements for the first lot, the person transferring the lot shall file an affidavit as described in Article II, Section 4.3.2b.v.

- (d) Water Conservation. All lots created in accordance with Sections 2.3.1a.ii(b), (d), (f), (g) and (h), which are less than ten (10) acres in size shall be subject to water conservation covenants as set forth in Article VII, Section 6.6.2.

History. Sections 2.3 and 2.4.1 of Section 2 were amended by County Ordinance 1996-3, providing for site planning standards, required submittals and a review procedure regarding terrain management. Section 2.4.2 was amended by Ordinance 1996-8 to include summary review subdivisions, update road and access requirements, clarify provisions for family transfers and add water conservation requirements for some land divisions.

SECTION 3 - HOME OCCUPATIONS

The requirements of this Section 3 of Article III apply to home occupations.

3.1 Location of District

Home occupations are allowed anywhere in the County, provided all of the requirements of the Code are met.

3.2 Performance Standards

A development permit involving a home occupation may be approved only if the following standards are met:

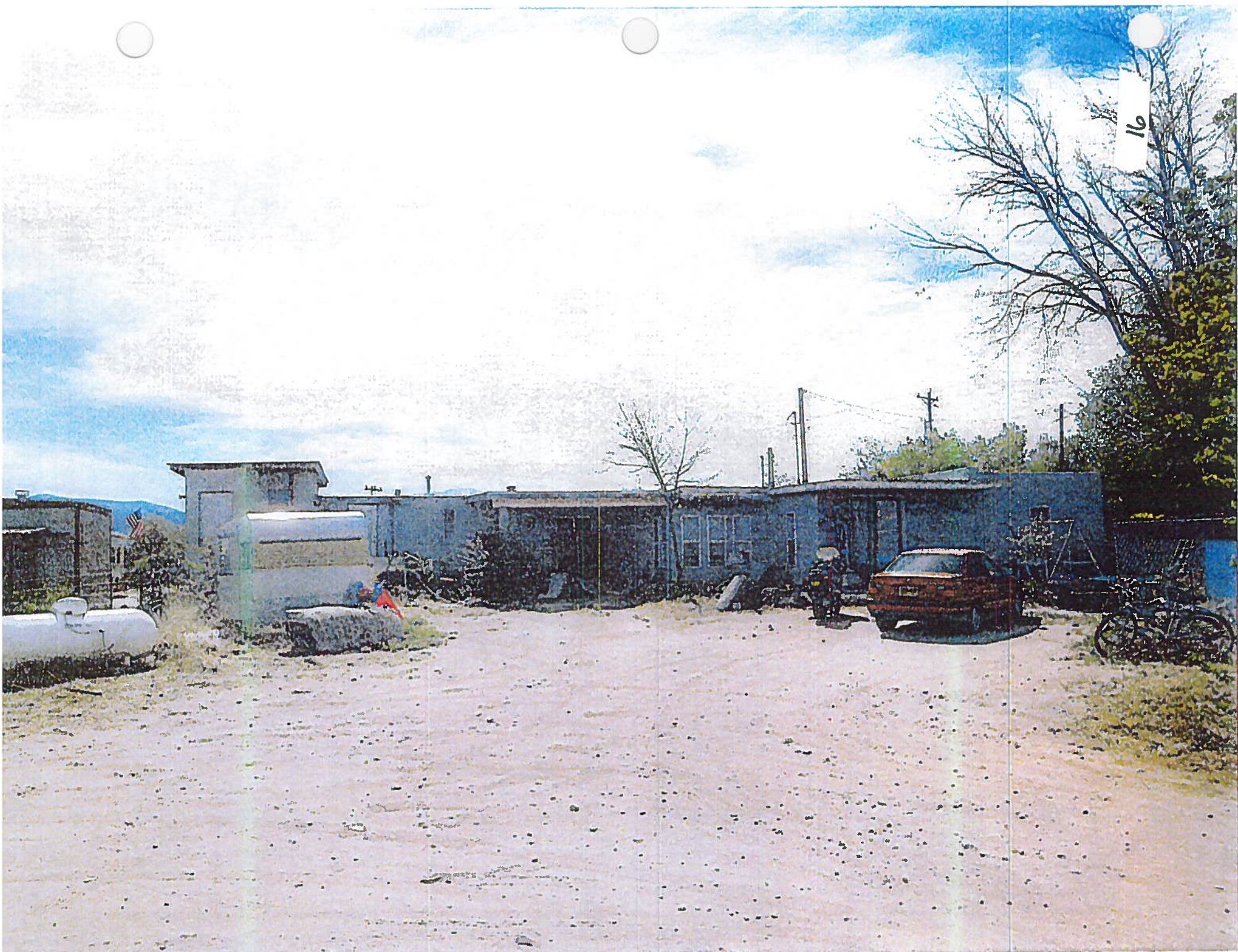
- 3.2.1 Not more than six (6) persons, other than members of a family residing on the premises, shall be regularly engaged in work at the site of the home occupation;
- 3.2.2 The use of the dwelling for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 50% of the floor area of the dwelling including accessory buildings shall be used in the conduct of the home occupation;
- 3.2.3 There shall be no change in the outside appearance of the building or premises, nor other visible evidence of the conduct of the home occupation, except for one (1) non-illuminated name plate sign not more than nine square feet in area;
- 3.2.4 Parking for employees and for customers or clients of the home occupation as required by Section 9 of this Article III shall be provided off the street;
- 3.2.5 No equipment or process shall be used in the home occupation which significantly interferes with the existing use of property in the adjacent area.

3.3 Submittals

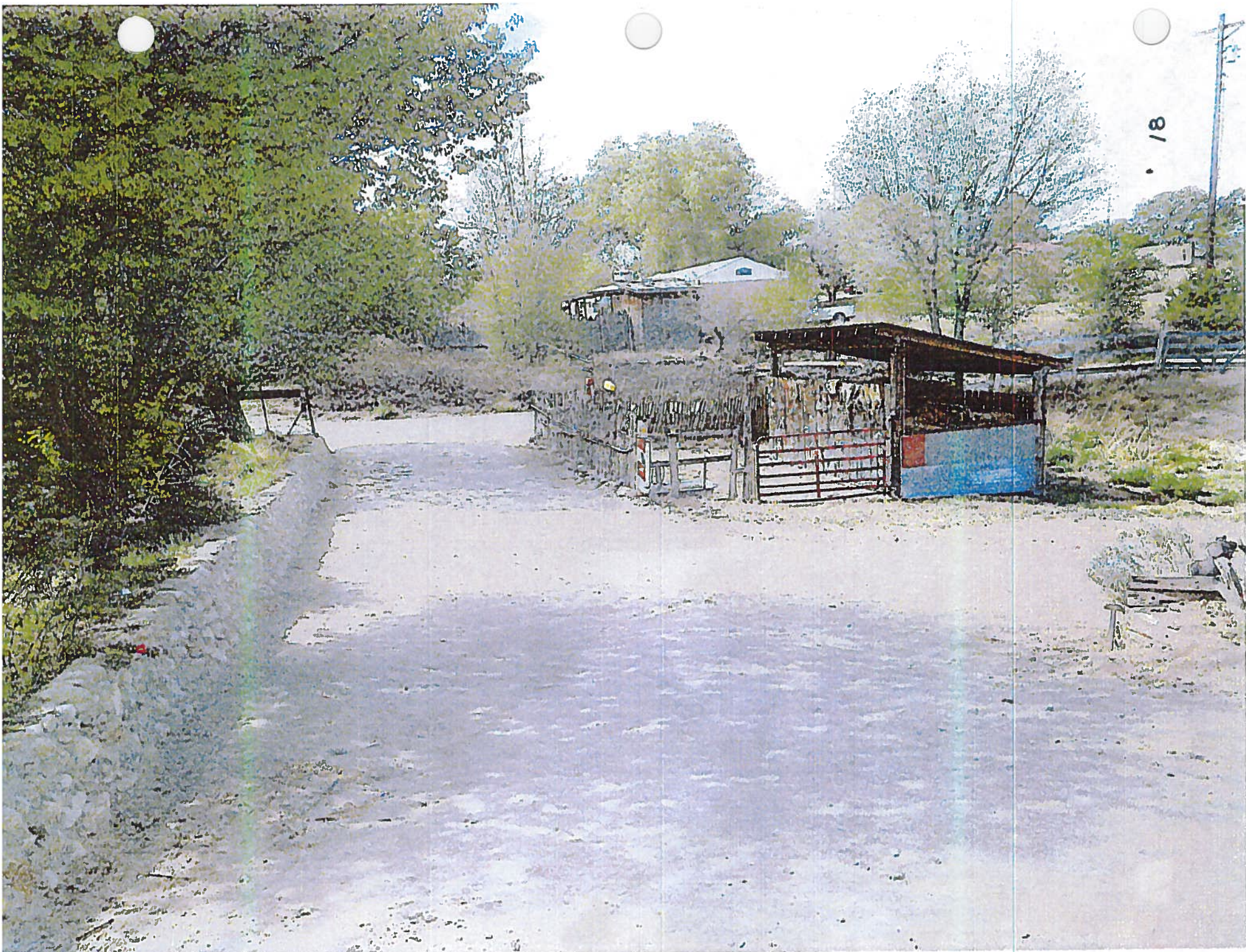
The application shall be submitted on a form provided by the Code Administrator which shall include a description of,

- 3.3.1 Activities involved;
- 3.3.2 Materials and equipment used;
- 3.3.3 Methods of operation;
- 3.3.4 Number of employees;
- 3.3.5 Type of product to be produced, serviced or repaired;















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SITE PLAN LEGEND

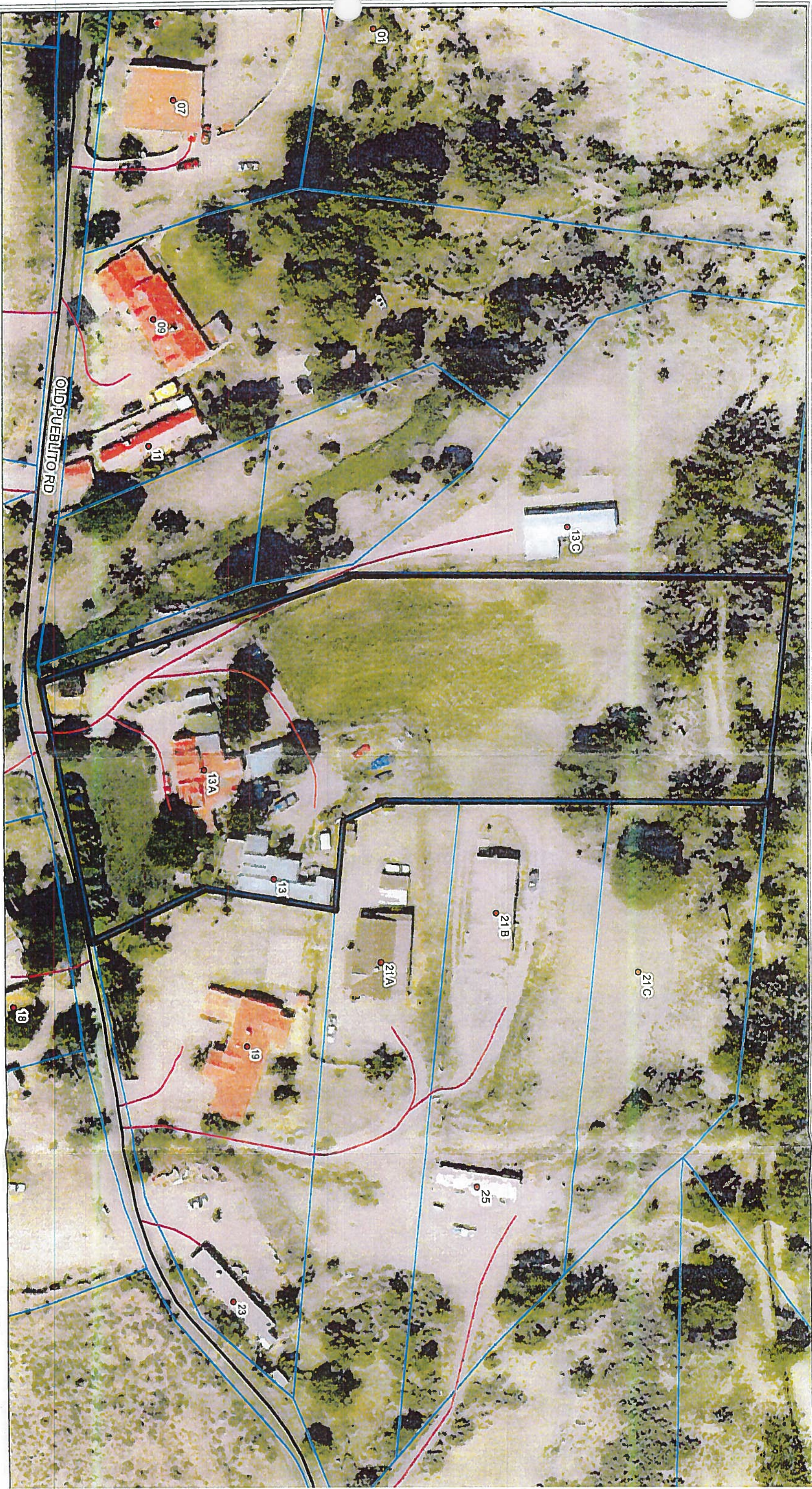
- A** = Barn and corral
- B** = RL Garcia Home
- C** = RL Garcia Car Port
- D** = RL Garcia Shed
- E** = RL Garcia Tractor Garage
- F** = RD Garcia Home
- G** = D Martinez Home
- H** = Joe Garcia Home
- I** = Proposed placement of mobile home
- J** = Existing driveway
- K** = Proposed driveway
- L** = Ditch

5 A Circle with a number indicates the 5-foot interval at which the measurement was taken. The table to the right shows the width of the road at that interval

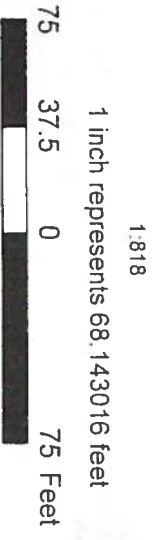
Feet	From	Width of	Entrance
0	15' 4"	15' 4"	Landmark
5	15' 4"		
10	15' 2"		
15	14' 6"		
20	14' 10"		
25	15' 4"		
30	15' 8.5"		
35	16' 5	End of Corral	
40	19' 4.5"		
45	40' 2"		
50	42' 6"		
55	40'		
60	34' 6"		
65	34'		
70	29' 7"		
75	27' 10"		
80	29' 11"		
85	31' 6"	adjacent to well house	
90	30'		
95	30' 2"		
100	30'	end of retaining wall by cactus	
105	30' 2"		
110	30' 2"		
115	29' 6"	RD Garcia (left) and RD Garcia (right)	
120	14' 1"		

Site Plan - Variance Request

Feet	From	Width of	Entrance
125	14' 7"	14' 7"	Landmark
130	14' 7"		
135	15'		
140	17' 5"		
145	18' 3"		
150	18' 5"	end of ditch	
155	17' 11"		
160	17' 2"		
165	18' 3"		
170	17' 9"		
175	15' 5"		
180	14' 9"		
185	14' 8"		
190	14' 8"		
195	14'		
200	14' 5"		
205	14' 2.5"		
210	14' 10"		
215	14' 10"		
220	14' 8"		
225	14' 6"		
230	14' 6"		
235	14' 2"		
240	13' 8"		proposed entrance



Legend
ROADS
DRIVEWAYS
Parcels



2012 Orthophotograph
2 FOOT CONTOURS

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

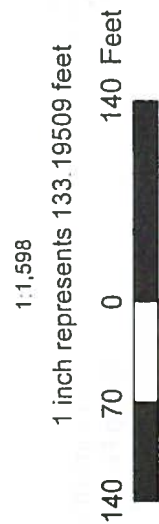
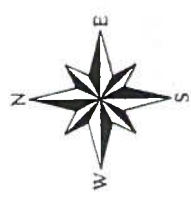
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EXHIBIT
8



May 30, 2013



2012 Orthophotography
2 FOOT CONTOURS



- Legend
- ROADS
 - DRIVEWAYS
 - Parcels



This information is for reference only.
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confirming data accuracy.

May 30, 2013

Daniel "Danny" Mayfield
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 Submittal Review

Date	6/11/13		
Project Name	Valdez, Norma Jean		
Project Location	13 Old Puebloito Road (Pojoaque)		
Description	Variance and Lot Split	Case Manager	M. Romero
Applicant Name	Robert Garcia	County Case #	13-5140
Applicant Address	13A Old Puebloito Road Santa Fe, NM 87506	Fire District	Pojoaque
Applicant Phone	505-670-9431		
Review Type	Commercial ☐ Master Plan ☐ Wildland ☐	Residential ☒ Preliminary ☐ Variance ☒	Sprinklers ☐ Final ☐ Hydrant Acceptance ☐ Inspection ☐ Lot Split ☒
Project Status	Approved ☐ Approved with Conditions ☒ Denial ☐		

The Fire Prevention Divison/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*) :

Fire Department Access

- 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.



An emergency vehicle turn around meeting Santa Fe County Access Road requirements, shall be provided at the time of any future development. The proposed turn around shall be submitted to the Santa Fe County Fire Prevention Division for final approval prior to receiving any building permits.

▪ **Street Signs/Rural Address**

Section 901.4.4 Premises Identification (1997 UFC) *Approved numbers or addresses shall be provided for all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property.*

Section 901.4.5 Street or Road Signs. (1997 UFC) *When required by the Chief, streets and roads shall be identified with approved signs.*

Properly assigned legible rural addresses shall be posted and maintained at the entrance(s) to each individual lot or building site within 72 hours of the commencement of the development process for each building.

▪ **Slope/Road Grade**

Section 902.2.2.6 Grade (1997 UFC) *The gradient for a fire apparatus access road shall not exceed the maximum approved.*

Driveway/fire access shall not exceed 11% slope and shall have a minimum 28’ inside radius on curves.

▪ **Restricted Access/Gates/Security Systems**

Section 902.4 Key Boxes. (1997 UFC) *When access to or within a structure or an area is unduly difficult because of secured openings or where immediate access is necessary for life-saving or firefighting purposes, the chief is authorized to require a key box to be installed in an accessible location. The key box shall be of an approved type and shall contain keys to gain necessary access as required by the chief.*

Automatic Fire Protection/Suppression

Due to the location of this proposed residence and the lack of a pressurized hydrant or water storage (draft hydrant) system within 1,000’ in this area, it is highly recommended that an Automatic Fire Suppression System meeting NFPA 13D requirements be installed.

It is also recommended that the homeowner and/or property owner contact their home insurance carrier to find out more information on minimum requirements for coverage.

Life Safety

Fire Protection requirements listed for this development have taken into consideration the hazard factors of potential occupancies as presented in the developer's proposed use list. Each and every individual structure of a private occupancy designation will be reviewed and must meet compliance with the Santa Fe County Fire Code (1997 Uniform Fire Code and applicable NFPA standards) and the 1997 NFPA 101, Life Safety Code, which have been adopted by the State of New Mexico and/or the County of Santa Fe.

General Requirements/Comments

▪ Inspections/Acceptance Tests

Shall comply with Article 1, Section 103.3.2 - New Construction and Alterations of the 1997 Uniform Fire Code, inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal.

The developer shall call for and submit to a final inspection by this office prior to the approval of the Certificate of Occupancy to ensure compliance to the requirements of the Santa Fe County Fire Code (1997 UFC and applicable NFPA standards) and the 1997 NFPA 101, Life Safety Code.

Prior to acceptance and upon completion of the permitted work, the Contractor/Owner shall call for and submit to a final inspection by this office for confirmation of compliance with the above requirements and applicable Codes.

▪ Permits

As required

Final Status

Recommendation for Variance approval with the above conditions applied.

Victoria De Vargas, Inspector

Victoria De Vargas
Code Enforcement Official

6/11/13
Date

Through: David Sperling, Chief
Buster Pally, Fire Marshal

File: NorthReg/De/Rev/Rejo/ValdezNorma V.A.R.doc



Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: August 13, 2013

TO: Board of County Commissioners

FROM: John Lovato, Development Review Specialist Senior

VIA: Penny Ellis-Green, Land Use Administrator *PEG*
Vicki Lucero, Building and Development Services Manager *VL*
Wayne Dalton, Building and Development Services Supervisor *WD*

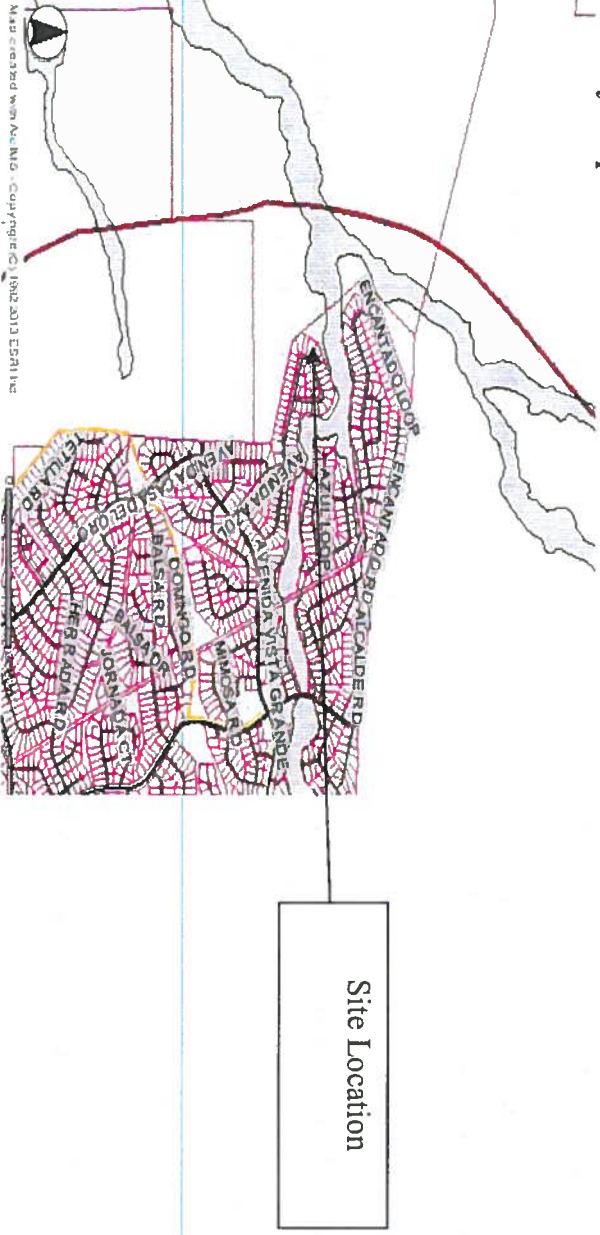
FILE REF.: CDRC CASE # V 13-5110 Ellen Jacobs Variance

ISSUE:

Ellen Jacobs, Applicant, Joseph Karnes Agent, requests a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow two dwelling units on 2.29 acres.

The property is located at 55 Camerada Loop, in the vicinity of Eldorado, within Section 10, Township 15 North, Range 9 East, (Commission District 5)

Vicinity Map:



SUMMARY:

The subject property is located in the Eldorado at Santa Fe Subdivision and is within the Basin Fringe Hydrologic Zone where the minimum lots size is 12.5 acres per dwelling unit. There is currently a residence, an attached dwelling unit, and a detached studio on the property. The current studio was previously a dwelling unit, and a notice of violation was issued to the applicant for exceeding density. The dwelling has now been converted into a studio and the kitchen has been removed. The units are currently being served by an on-site well and a conventional septic system.

The Applicant states, all the structures were constructed in the early 1980's so she could provide care for her mother who lived in the main house. The Applicant further states, she relied on her contractor who advised her that the attached unit was allowed by code. Furthermore, the Applicant states she anticipates soon of being in need of the same type of care and plans to have a caretaker live in the main house while she continues to live in the attached unit.

The Applicant's agent states that strict compliance with the requirements of the Code would result in extraordinary hardship for Ms. Jacobs, particularly given that the attached unit has existed on the subject property for over 20 years.

Article II, § 3 (Variances) of the County Code states: "Where in the case of proposed development, it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted condition or that these conditions would result in inhibiting the achievement of the purposes of the Code, the applicant may submit a written request for a variance." This Section goes on to state "In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified." **The variance criteria does not consider financial or medical reasons as extraordinary hardships**

On June 20, 2013, the CDRC met and acted on this case, the decision of the CDRC was to recommend denial of the Applicant's request by a 6-0 vote.

This Application was submitted on March 27, 2013.

Growth Management staff have reviewed this Application for compliance with pertinent Code requirements and find the project is not in compliance with County criteria for this type of request.

APPROVAL SOUGHT: Approval of a variance from Article III, §10 (Lot Size Requirements) of the Land Development Code.

GROWTH MANAGEMENT AREA: Galisteo, SDA-2

HYDROLOGIC ZONE: Basin Fringe Hydrologic Zone, minimum lot size per Code is 12.5 acres per dwelling unit. The two existing dwelling units exceed the number of units allowed on the subject property.

FIRE PROTECTION: Eldorado Fire District.

WATER SUPPLY: Domestic Well, with water restrictions of 0.25 acre foot per year which is only sufficient for a single dwelling unit.

LIQUID WASTE: Conventional Septic System.

VARIANCES: Yes

AGENCY REVIEW:

<u>Agency</u>	<u>Recommendation</u>
County Fire	

STAFF RECOMMENDATION: Denial of a variance from Article III, §10 (Lot Size Requirements) of the Land Development Code.

The Decision of the CDRC was to recommend denial of the variance request.

If the decision of the BCC is to approve the Applicant’s request, staff recommends imposition of the following conditions:

1. Water use shall be restricted to 0.25 acre feet per year per home. A water meter shall be installed for each residence. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk’s Office (As per Article III, § 10.2.2 and Ordinance No. 2002-13).
2. The Applicant must obtain a development permit from the Building and Development Services Department for the additional dwelling unit. (As per Article II, § 2).
3. The Applicant shall provide a liquid waste permit from the New Mexico Environment Department with the Development Permit Application (As per Article III, § 2.4.1a.1 (a) (iv)).
4. The placement of additional dwelling units or Division of land is prohibited on the property. (As per Article III, § 10).
5. The Applicant shall comply with all Fire Prevention Division requirements at time of development permit

Application (As per 1997 Fire Code and NFPA Life Safety Code).

EXHIBITS:

1. Letter of request
2. Article III, §10 (Lot Size Requirements)
3. Article II, § 3 (Variances)
4. Site Photographs
5. Site Plan
6. Aerial of Site and Surrounding Area
7. Letter of Opposition
8. June 20, 2013 CDRC Meeting Minutes

SOMMER KARNES & ASSOCIATES LLP

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Post Office Box 2476
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April 5, 2013

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Licensed in New Mexico and California
jrh@sommer-assoc.com

John Lovato
Santa Fe County Growth Management Department
102 Grant Avenue
Santa Fe NM 87504

Re: Barbara Ellen Jacobs Variance Application -- 55 Camerada Loop

Dear Mr. Lovato:

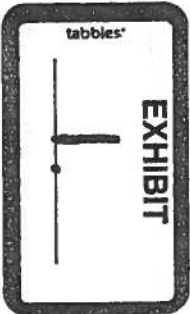
On behalf of property owner Barbara Ellen Jacobs, this application requests approval of a variance of Article III, Section 10 (lot size requirements) of the Land Development Code to allow two dwelling units on 2.29 acres.

The subject property is located in the Eldorado at Santa Fe and is within the Basin Fringe Zone, where the maximum density is one dwelling unit per 5 acres. The structures on the property were built in the early 1980's and consist of a main house, an attached dwelling unit and a detached studio. The units are served by an on-site well.

Ms. Jacobs requests issuance of the variance so that that the existing attached unit may remain as a second dwelling unit on the property. The attached unit was originally constructed so that Ms. Jacobs could live in that unit and provide care for her mother, who lived in the main house, which was done for several years. Ms. Jacobs relied on her contractor, who erroneously advised that the attached unit was allowed by Code. Ms. Jacobs now understands and acknowledges that this was in error.

Furthermore, Ms. Jacobs anticipates soon being in need of the same need of care as she provided to her mother. Ms. Jacobs' plans to have a caretaker live in the main house, while she will continue to live in the attached unit.

Strict compliance with the requirements of the Code would result in an extraordinary hardship on Ms. Jacobs, particularly given that the attached unit has existed on the subject property for over 20 years.



Sommer, Karnes & Associates, LLP

John Lovato
April 5, 2013
Page 2 of 2

Please contact me if you have questions or need additional information.

Sincerely,

Joseph M. Karnes

TYPE OF USE	NUMBER OF PARKING SPACES
Retail Centers	1 per 1 employee plus per 200 sq. ft.
Restaurants, Bars	1 per 1 employee plus per 150 sq. ft.
Gas Stations	1 per 1 employee plus 1 per 300 sq. ft. of garage space.
Industrial	1 per employee plus 1 per 500 sq. ft.
Small Scale Centers, Home Occupations	1 per 1 employee plus 1 per 400 sq. ft. of commercial space.
Large Scale Residential, Institutional, Residential Resorts	2 per dwelling unit
Churches, auditoriums, theaters, arenas, spaces used for public assembly	1 for each 4 seats
Uses not listed	As determined by the County

9.2 Multiple use projects shall calculate cumulative parking needs for each type of use in the project to be developed.

9.3 Minimum size of parking space shall be 300 square feet which includes the parking stalls and aisles.

9.4 Commercial, industrial, other non-residential and large scale residential uses shall provide for handicap parking.

~~History. 1980 Comp. 1980-6. Section 9. Parking Requirements was amended by County Ordinance 1990-11 adding requirements for auditorium uses, multiple uses and handicap access.~~

SECTION 10 - LOT SIZE REQUIREMENTS

10.1 Relationship of Lot Sizes to Water Policies

The General Plan sets forth the policy that future population growth in the County should be supported by adequate long term water availability and concentrate population growth in Urban and Metropolitan Areas and Traditional Communities. Development within these areas will generally be served by one or more regional water systems, or community water systems. Development outside of the Urban, Metropolitan Areas and Traditional Communities using domestic wells (Section 72-12-1 wells) should consider estimated long term water availability and protect water resources for existing County residents having domestic wells. Development may also be permitted if the applicant for a development permit demonstrates that he/she has water rights, excluding rights permitted under 72-12-1 NMSA 1978 or 75-1-1 NMSA 1953, recognized and permitted by the Director of Water Resources Department of Natural Resources Division of the State of New Mexico which are approved for transfer by the Director of Natural Resources Division to the site of the Development, and the permitted water rights are sufficient to support the proposed development.

10.1.1 Water Policies Governing Lot Sizes Where the Development will Utilize Permitted Water Rights

Applicants seeking a development permit may base their application on water rights authorized and permitted by the Director of Water Rights Division of the Natural Resources Department of the State of New Mexico, (with the exception of water rights permitted under Section 75-11-1 NMSA 1953 or 75-12-1 NMSA 1978). The applicant shall provide evidence that he/she owns or has an option to purchase the permitted water rights in an amount adequate to meet the needs of the development as shown by Article VII, Section 6.6.2. Water Budgets and Conservation Covenants. Any development permit approved and issued by the County shall be expressly conditioned upon the applicant obtaining final non appealable order or final non appealable approval from the Director of Water Rights Division of the Natural Resources Department of the State of New Mexico authorizing the change in use and change in point of diversion to meet the needs of the proposed development. The minimum lot size permitted by this Section shall be 2.5 acres, unless the proposed development is within an Urban, or Metropolitan Area or a Traditional Community, in which case further adjustments of the lot size shall be permitted as provided by Sections 10.4, 10.5.2 and 10.5.3.

10.1.2 Water Policies Governing Lot Sizes Where Developments Will Not Utilize Permitted Water Rights

BASIN ZONE: Minimum lot size shall be calculated based upon ground water storage only. Water that is in storage beneath the lot in the Basin Zone may be depleted over a 100-year lifetime. The lot must be large enough to have ground water in storage beneath the lot for a 100 year supply of water without consideration of recharge of the ground water.

BASIN FRINGE ZONE: Same as Basin Zone.

HOMESTEAD ZONE: Minimum lot size shall be calculated based either upon ground water storage or recharge of ground water, but not both. Water that is in storage beneath the lot in the Homestead Zone may be depleted over a 100 year lifetime. The lot must be large enough to have ground water in storage beneath the lot for a 100 year supply of water. Calculation of recharge in any specific case shall be done in a manner approved by the County Hydrologist. Recharge should be sufficient to supply water over a 100 year lifetime. However, applicants should be aware that studies done in the development of the General Plan indicated that in most areas of the Homestead Zone minimum lot sizes based on storage in this zone would be larger than those based on recharge.

MOUNTAIN ZONE: Same as Homestead Zone.

METROPOLITAN AREAS-BASIN AND BASIN FRINGE: For Basin and Basin Fringe zones within a Metropolitan Area as shown on Code Maps 12, 14 and 15, it is anticipated that regional water systems will eventually be developed. Therefore, water that is in storage beneath a lot within a Metropolitan Area may be depleted over a 40 year lifetime. The lot must be large enough to have ground water in storage beneath the lot for a 40 year supply of water without consideration of recharge of the ground water.

METROPOLITAN AREAS-HOMESTEAD AND MOUNTAIN ZONE: For Homestead and Mountain Zones within a Metropolitan Area, the minimum lot size shall be calculated based either upon ground water storage or recharge of ground water, but not

both. Water that is in storage beneath the lot in the Homestead Zone may be depleted over a 40 year lifetime. The lot must be large enough to have a ground water in storage beneath the lot for a 40 year supply of water. Calculation of recharge in any specific case shall be done in a manner approved by the County Hydrologist. Recharge should be sufficient to supply water over a 40 year lifetime. However, applicants should be aware that studies done in the development of the General Plan indicated that in most areas of the Homestead and Mountain Zones, minimum lot sizes based on storage in these zones would be larger than those based on recharge.

10.2 Calculation of Minimum Lot Size

Calculation of the minimum lot size under Section 10.1.2 shall be determined by the formula:

Acres Feet

Use (Year) x acres

Minimum Lot Size (Acres)=Water Available in acre feet per acre/year

MLS =

U x acres

A

Where:

MLS is the minimum lot size in acres; it is the size of a lot needed to supply anticipated water needs.

U is the anticipated water needs for the lot; it is the use of water which will occur from the intended development of the lot, measured in acre-feet per year. The standard values listed for A were derived using the procedures set forth in the water appendix of the Code. The standard value for U is set forth in Section 10.2.2. A is the amount of water available in the aquifers which are beneath the lot, measured in acre-feet per acre per year using recharge or storage as described in 10.1.2.

10.2.1 Standard Values for A and Adjustments. The standard values for A shall be as follows:

<u>BASIN ZONE:</u>	0.1 acre-feet per acre per year
<u>BASIN FRINGE ZONE:</u>	.02 acre-feet per acre per year
<u>MOUNTAIN ZONE:</u>	.0125 acre-feet per acre per year
<u>HOMESTEAD ZONE:</u>	.00625 acre-feet per acre per year

The minimum lot sizes which result from the use of these standard values are as follows:

<u>BASIN ZONE:</u>	10 acres
<u>BASIN FRINGE ZONE:</u>	50 acres
<u>MOUNTAIN ZONE:</u>	80 acres
<u>HOMESTEAD ZONE:</u>	160 acres

The standard values of A may be adjusted if the applicant submits a hydrology report, either a detailed report (see Section 6.4 of Article VII), or a reconnaissance report (see Section 6.7 of Article VII). Values of A determined in such reports shall be reviewed by the County Hydrologist, who shall recommend to the Code Administrator whether or not

the value is reasonable, and if not, shall recommend a value appropriate for the use in determining minimum lot size.

The actual value of A used shall be based on the information submitted by the applicant by the County Hydrologist or by others submitting information. If water conservation measures are used, as provided in Section 10.2.4b, and an actual value of A is determined, in most cases minimum lot sizes will be reduced below those listed in Section 10.2.1. However, applicants are advised that because of varying geologic conditions in Santa Fe County there is no assurance that a hydrology report will determine that the water supply in an area is more abundant than indicated by the standard value of A. In cases where the actual study shows a value of A which is less than the standard value (that is, there is less water available than assumed by the standard value), minimum lot size requirements may be increased beyond those indicated in this Section.

10.2.2 Calculation of Use

U shall have a standard value of 1.0 acre feet per year per dwelling unit for residential use. For all other uses U shall be equal to the actual anticipated consumptive use for the development. The standard value for residential use may be adjusted if an applicant proposes to utilize water conservation measures. There shall be no adjustments for conservation in Urban, Traditional Community and Agricultural Valley Areas.

The Code Administrator shall maintain an application form upon which are listed potential water conservation measures. This form shall indicate the effect of each conservation measure of the value of U. As a minimum, the measures shall include: restrictions on use of water for irrigation purposes (including watering of lawns, gardens and shrubbery); restrictions on use of water for swimming pools; restrictions on the number of bathrooms per dwelling unit; restrictions on garbage disposal units; devices which reduce the utilization of water by appliances, kitchen fixtures, and bathroom fixtures; and pressure-reduction devices on in-coming water lines.

Any applicant who uses the application form as a basis for proposing conservation measures shall be allowed to reduce U in accordance with the effectiveness of the measures proposed. The maximum reduction in U which shall be considered achievable using this approach shall be a reduction of U to no less than 0.25 acre feet per year per dwelling unit. An applicant who proposes water conservation measures sufficient to reduce U to less than 0.25 acre feet per year per dwelling unit shall be required to prepare a water conservation report. See Section 6.6 of Article VII.

The actual value of U, and the minimum lot sizes which result, will depend on the conservation measures proposed by the applicant. In general, applicants who substantially restrict the use of irrigation (lawn and garden) water will be assumed to have a U of 0.5 acre feet per year per dwelling unit, while those who further restrict other types of water use will be assumed to require even less water. For reference purposes, the following lot sizes would be allowed if U is equal to 0.5 acre feet per year per dwelling unit.

BASIN ZONE:	5 acres
BASIN FRINGE ZONE:	25 acres
MOUNTAIN ZONE:	40 acres
HOMESTEAD ZONE:	80 acres

For reference purposes, the following lot sizes would be allowed if U is equal to 0.25 acre feet per year per dwelling unit.

<u>BASIN ZONE:</u>	2.5 acres
<u>BASIN FRINGE ZONE:</u>	12.5 acres
<u>MOUNTAIN ZONE:</u>	20 acres
<u>HOMESTEAD ZONE:</u>	40 acres

- 10.2.3 Special Standards for Calculation of Use for Small Scale Commercial Development
Special standards which set forth specific limitations on use for small scale commercial developments are set forth in this subsection. Applicants who propose small scale commercial development are required to prepare a written estimate of water use. The value of U shall be determined by that estimate unless otherwise determined by the Code Administrator. The Code Administrator shall have on file, a list of standard water consumption requirements for commercial activities. The applicant may use these figures in lieu of the written estimate of water use. Applicants may use standardized values for A as set forth in Section 10.2.2. or they may submit a hydrology report which contains an actual estimate of A for the land which is to be developed.

- 10.2.4 Special Standards for Calculation of Water Availability for Metropolitan Areas
Special standards which set forth limitations on water availability for metropolitan areas shown in Code Map 12, 14, and 15 are set forth in this Sub-section.

- a. Standard Values of Water Availability
Because the policy for water management in Metropolitan areas allows for depletion of storage over a 40 year period, standard values for A are as follows:

<u>BASIN ZONE:</u>	.25 acre feet per acre per year
<u>BASIN FRINGE ZONE:</u>	.05 acre feet per acre per year
<u>MOUNTAIN ZONE:</u>	.0125 acre feet per acre per year

The minimum lot sizes which result from the use of these standard values are as follows:

<u>METRO BASIN ZONE:</u>	4 acres
<u>METRO BASIN FRINGE ZONE:</u>	20 acres
<u>METRO MOUNTAIN ZONE:</u>	80 acres

- b. Adjustments for Water Conservation
For the division of land into four (4) or less lots, the minimum lot size may be adjusted using the procedures set forth in Section 10.2.2. For reference purposes, the minimum lot sizes which result if U = 0.25 acre feet per year per dwelling unit or commercial use are:

<u>BASIN ZONE:</u>	2.5 acres
<u>BASIN FRINGE ZONE:</u>	5 acres
<u>MOUNTAIN ZONE:</u>	20 acres

- 10.3 Exceptions to Minimum Lot Size Requirements

The minimum lot sizes calculated under Sections 10.1 and 10.2 shall not apply to the areas described in this Section and the minimum lot size contained in this Section shall control.

10.3.1 Metropolitan Area - Community Water Systems
Where a community water system provides water service to a development within the Metropolitan Areas, as shown on Code Maps 12, 14 and 15, the minimum lot sizes shall be:

<u>BASIN ZONE:</u>	1 acre
<u>BASIN FRINGE ZONE:</u>	2.5 acres
<u>MOUNTAIN ZONE:</u>	5 acres

10.3.2 Agricultural Areas
In the Estancia Valley Agricultural Area, minimum lot sizes shall be 50 acres for the Basin Fringe Zone and 10 acres for the Basin Zone. Adjustments for water conservation and water availability will not be allowed. In the Northern Valley Agricultural Area, the minimum lot size for lands with permitted water rights shall be five (5) acres. Adjustments to lot sizes in these areas are conditioned on the finding in each case by the County Development Review Committee that it is in the best interest of the County to convert water rights from agricultural to commercial or residential use.

10.3.3 Traditional Communities
The minimum lot size in traditional communities as shown on Code Maps 40-57, shall be .75 acres, except as follows:
14,000 sq. ft. - Where community water service and community sewer service systems are utilized, or a Local Land Use and Utility Plan is adopted.

10.3.4 Urban Areas
The minimum lot size in Urban Areas shall be 2.5 acres, except as follows:
1 acre - Where community water or community liquid waste disposal systems are utilized.
.50 acre - Where community water and community sewer systems are utilized.

10.4 Density Transfer

The minimum lot sizes specified in this Section 10 shall be taken as gross figures for the purposes of determining the total number of dwellings allowed in a particular development. The arrangement of dwellings in clusters or in such locations as to take advantage of topography, soil conditions, avoidance of flood hazards, access and reduced cost of development, shall not violate the lot size requirements of the Code so long as the total number of acres per lot conforms with the requirements of the Code.

SECTION 11 - IMPORTING OF WATER

11.1 Location Requirements

Developments which import water from the surface Rio Grande or other locations outside Santa Fe County to any location in Santa Fe County designated in the Development Code as other than urban or metropolitan locations are permitted to locate anywhere in the County provided they meet all requirements of the Code, except that in lieu of the density requirements as specified in Article III, Section 10, the proposed development shall meet the following criteria.

~~2.5 Zoning~~

~~In connection with the review of an application for a development permit with respect to matters described in the New Mexico Statutes concerning zoning, the procedures concerning zoning matters set forth in the New Mexico Statutes, as amended from time to time, shall apply in addition to the review procedures provided in the Code. The time limits established in this Article II may be extended if required, in order to comply with the procedures concerning zoning matters.~~

~~2.6 Subdivisions~~

~~In connection with review of an application for a development permit with respect to matters described in the New Mexico Subdivision Act, as it may be amended from time to time, the procedures for review provided in Article V of the Code and the New Mexico Subdivision Act shall apply in addition to the review procedures provided in this Article II of the Code. The time limits established in this Article II shall be extended if required in order to comply with the procedures concerning subdivision matters.~~

~~2.7 Other Requirements~~

~~The time limits set forth in this Article II shall be extended in order to comply with other provisions of the Code providing for time limits in connection with reviews and requirements under the Code.~~

SECTION 3 - VARIANCES

3.1 Proposed Development

Where in the case of proposed development, it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A Development Review Committee may recommend to the Board and the Board may vary, modify or waive the requirements of the Code and upon adequate proof that compliance with Code provision at issue will result in an arbitrary and unreasonable taking or property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety. In arriving at its determination, the Development Review Committee and the Board shall carefully consider the opinions of any agency requested to review and comment on the variance request. In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified.

3.2 Variation or Modification

In no case shall any variation or modification be more than a minimum easing of the requirements.

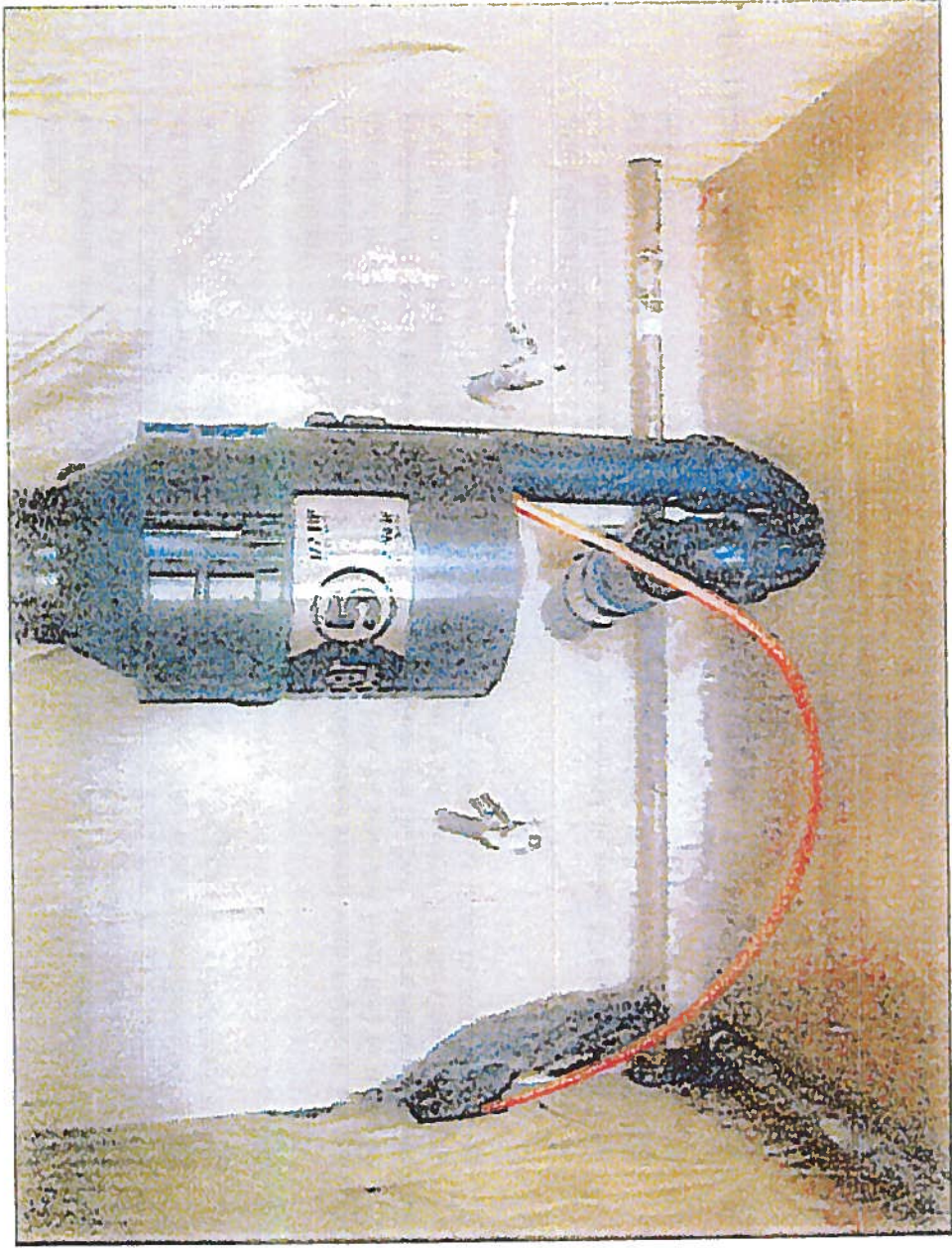
3.3 Granting Variances and Modifications

In granting variances, and modifications, the Board may require such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified

3.4 Height Variance in Airport Zones

All height variance requests for land located with approach, Transitional, Horizontal and Conical surfaces as described within Map #31 A, incorporated herein by reference, shall be reviewed for compliance with Federal Aviation Administration Regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the





11/30/12

BARBARA ELLEN JACOBS

55 CAMERADA LOOP





11/30/12

BARBARA ELLEN JACOBS

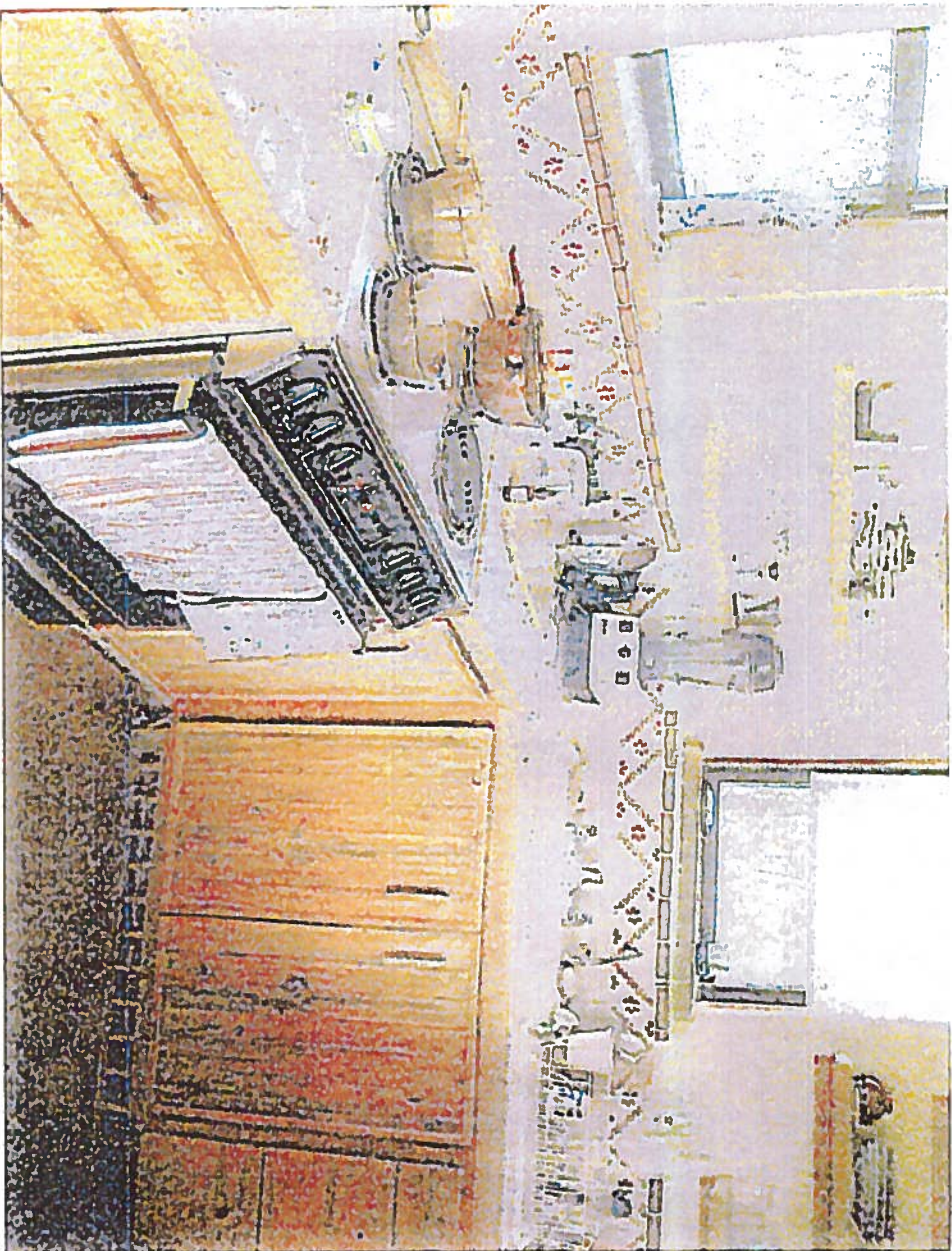
55 CAMERADA LOOP



11/30/12

BARBARA ELLEN JACOBS

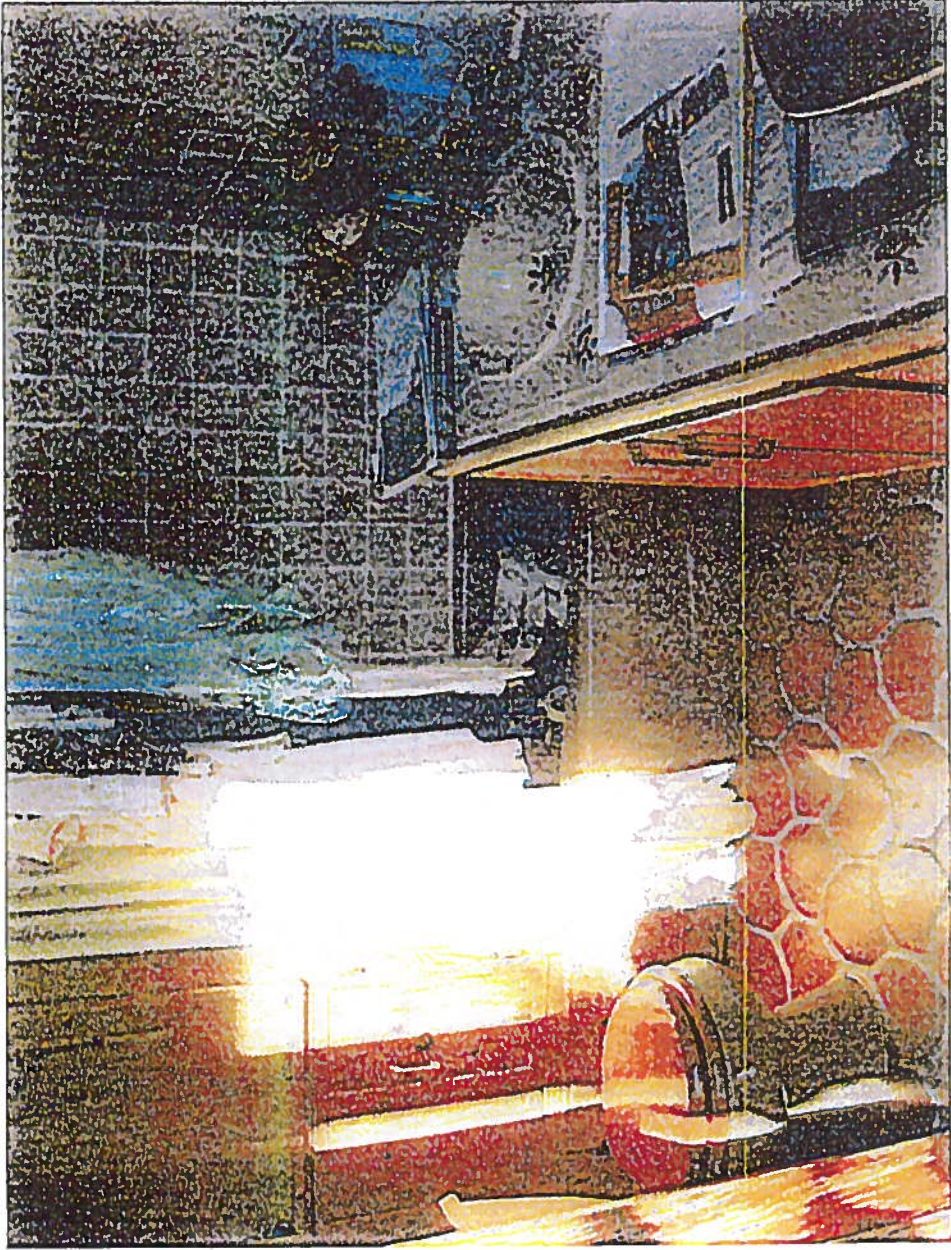
55 CAMERADA LOOP



11/30/12

BARBARA ELLEN JACOBS

55 CAMERADA LOOP



11/30/12

BARBARA ELLEN JACOBS

55 CAMERADA LOOP



11/30/12

BARBARA ELLEN JACOBS

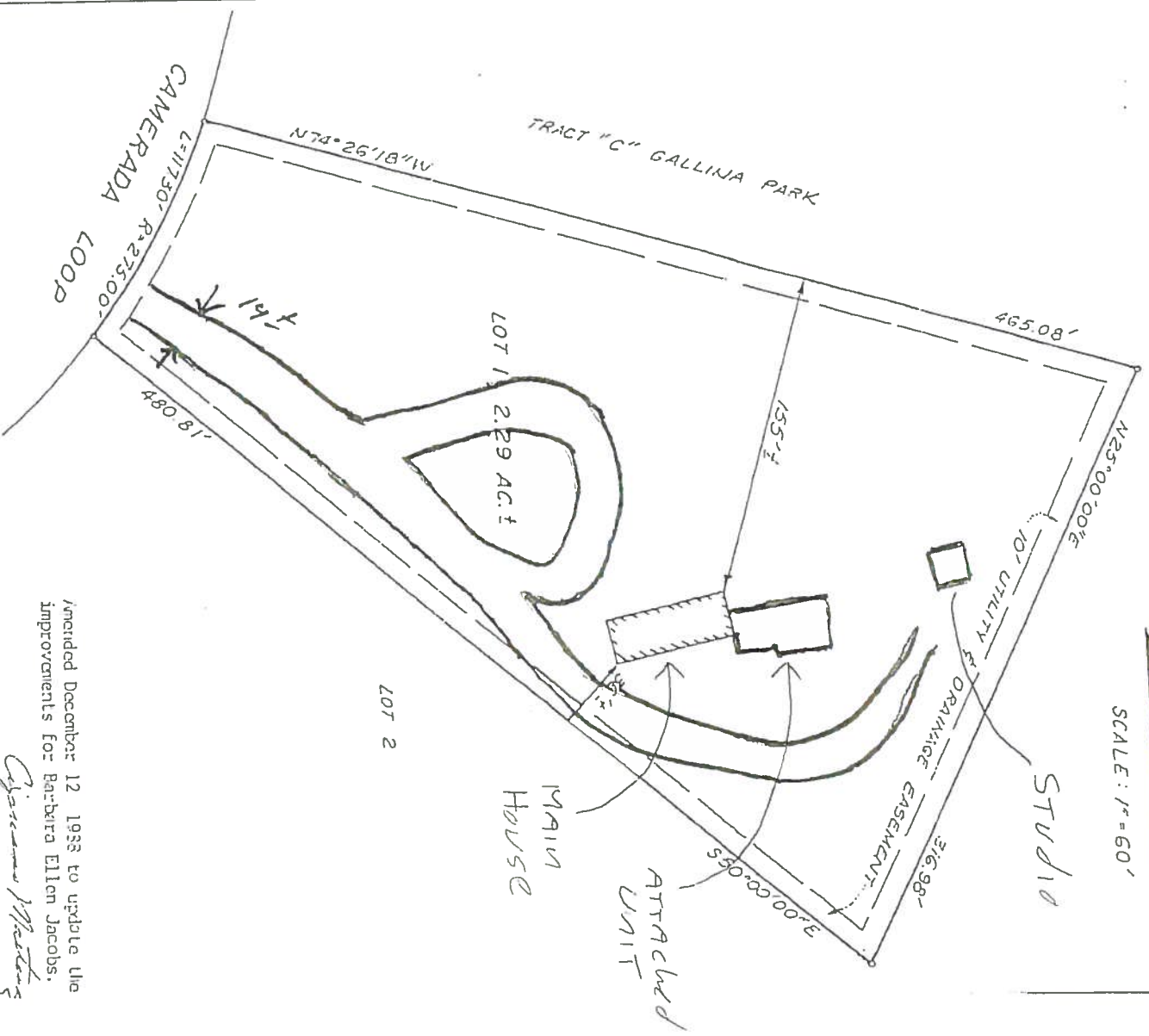
55 CAMERADA LOOP



11/30/12

BARBARA ELLEN JACOBS

55 CAMERADA LOOP



I hereby certify that this plat accurately delineates the improvements as shown hereon as the same were located in the field under my direction on June 27, 1984.

Amended December 12, 1988 to update the improvements for Barbara Ellen Jacobs.

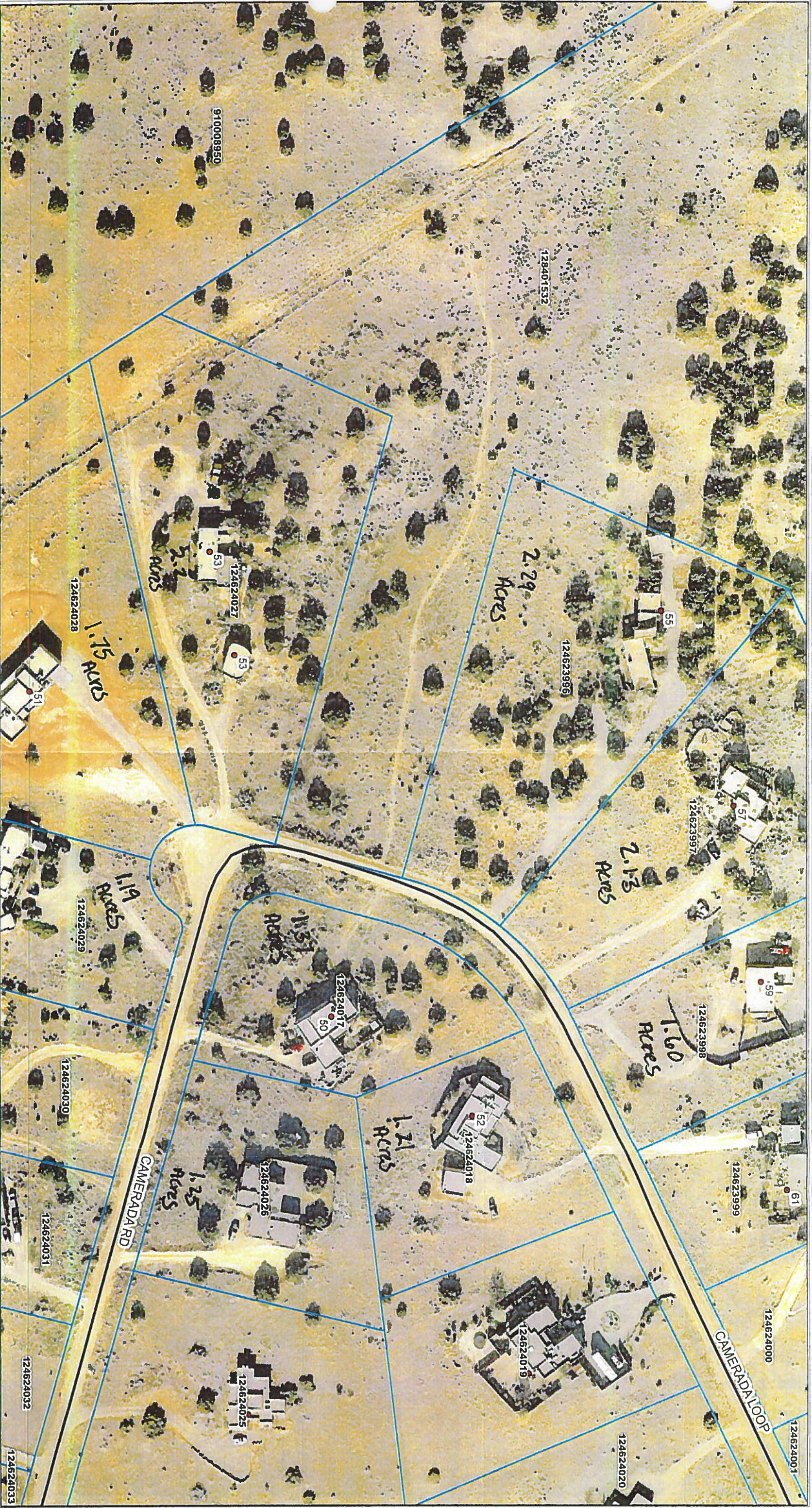
Opriano Martinez

Opriano Martinez
Opriano Martinez
L.S. No. 3995

IMPROVEMENT SURVEY FOR
BARBARA ELLEN JACOBS
LOT 1, BLOCK 6
ELDORADO AT SANTA FE UNIT 1
SANTA FE COUNTY, NEW MEXICO



64F57
21



Legend

ROADS

Parcels

EXHIBIT

6.

1:1,200

1 inch represents 100 feet

100 50 0 100 Feet



2008 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.



June 6, 2013

22

June 3, 2013

UBL: 10601

Barbara Jacobs
55 Camerada Loop
Santa Fe NM 87508

Subject: **Requirements for residences should you divide your lot into two lots**

Dear Barbara:

Barbara, we noted a sign at the entrance your driveway stating that you are attempting to divide your lot into two lots with Santa Fe County. We need to make you aware that as a member of the ECIA, should you do this, and the Casita is being considered as the 2nd home on the 2nd lot, this structure would not be in compliance for the following reasons:

1. Under Article II, Section 4 of the covenants, all dwellings on a lot must be a minimum of 1000 square feet in size, exclusive of garages, carports, etc. and we do not believe your casita is large enough to be 1000 square feet in size.
2. Secondly, under this same Section 4 of the covenants, all houses are required to have a garage, which the casita does not have.
3. Thirdly, we do not believe that there is a septic system for the casita and we believe that under NM State Laws all homes must have their own septic system. (Please verify this with the State of NM).

Due to these requirements, should you get approval to divide your one lot into two lots, and the existing Casita is concerned the 2nd home, modifications to the Casita would be required under the covenants.

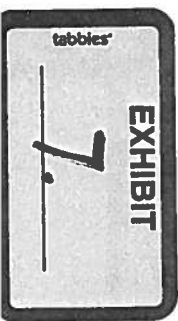
Additionally, these are other factors that you will need to take into consideration in such a lot split:

1. You need to be aware that in order to divide these lots, both of the structures will be required to meet the Eldorado setback requirements with respect to the new property lines.
2. Should you divide these lots, you will not be able to go back at some point to re-join them as one lot.
3. With the division of these lots, both lots will be required to pay the annual ECIA assessments.

We are requesting that you respond within fourteen days (14) upon receipt of this letter to advise the ECIA on the details of your plans relative to this lot division request. If you need an application or a copy of the Covenants or Guidelines please give me a call and/or visit the "Architectural Info" page at our web site:
<http://www.eldoradosf.org>.

Sincerely,

Mark Young
Covenant Compliance Representative
Eldorado Community Improvement Association
466-4248, Ext. 15
Mark@eldoradosf.org



not an option. He added the extension cannot go forward without the severance. “In order to segregate the property we need to address the reality that the County doesn’t control the wells or the water rights that were the subject of the original application. . . . If we were to ask and receive approval of a master plan that purported to use those wells and water rights the resulting order would be void.”

Member DeAnda indicated she supported what the County is attempting to do, but given the level of confusion she moved to table for one month to give the La Cienega community the opportunity to meet with the steering committee. Member Katz seconded.

Member Drobnis said he supported the motion to table as it is consistent with what has been asked of other developers.

Member Anaya said he supports the County in its adventure. He mentioned seeing the fire earlier in the day and noted fire protection is included in the County’s proposal.

Member Katz indicated Mr. Sommer provided a good roadmap and he supported a one-month tabling.

The motion passed by majority [5-1] voice vote with Member Anaya casting the dissenting vote. [Member Martin was not present for this action.]

- A. CDRC CASE # V 13-5040 Ellen Jacobs Variance. Ellen Jacobs, Applicant, Joseph Karnes Agent, Request a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow Two Dwelling Units on 2.29 Acres. The Property is Located at 55 Camerada Loop, in the Vicinity of Eldorado, within Section 10, Township 15 North, Range 9 East, Commission District 5 [Exhibit 7: Letter of Opposition]

Mr. Lovato gave the staff report as follows:

“The subject property is located in the Eldorado at Santa Fe Subdivision and is within the Basin Fringe Hydrologic Zone where the minimum lots size is 12.5 acres per dwelling unit. There is currently a residence, an attached dwelling unit, and a detached studio on the property. The current studio was previously a dwelling unit, and a notice of violation was issued to the applicant for exceeding density. The dwelling has now been converted into a studio and the kitchen has been removed. The units are currently being served by an onsite well and a conventional septic system.

“The Applicant states, all the structures were constructed in the early 1980’s so she could provide care for her mother who lived in the main house. The Applicant further states, she relied on her contractor who advised her that the attached unit was allowed by code. Furthermore, the Applicant states she anticipates soon of being in need of the same type of care and plans to have a caretaker live in the main house while she continues to live in the attached unit.

“The Applicant’s agent states that strict compliance with the requirements of the Code would result in extraordinary hardship for Ms. Jacobs, particularly given that the attached unit has existed on the subject property for over 20 years.

“Growth Management staff have reviewed this Application for compliance with pertinent Code requirements and find the project is not in compliance with County criteria for this type of request.”

Mr. Lovato indicated staff was recommending denial of a variance from Article III, §10 of the Land Development Code. If the decision of the CDRC is to recommend approval of the Applicant’s request, staff recommends imposition of the following conditions:

1. Water use shall be restricted to 0.25 acre-feet per year per home. A water meter shall be installed for each residence. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk’s Office (As per Article III, § 10.2.2 and Ordinance No. 2002-13).
2. The Applicant must obtain a development permit from the Building and Development Services Department for the additional dwelling unit. (As per Article II, § 2).
3. The Applicant shall provide a liquid waste permit from the New Mexico Environment Department with the Development Permit Application (As per Article III, § 2.4.1a.1 (a) (iv).
4. The placement of additional dwelling units or division of land is prohibited on the property. (As per Article III, § 10).
5. The Applicant shall comply with all Fire Prevention Division requirements at time of development permit Application (As per 1997 Fire Code and NFPA Life Safety Code).

Member Katz asked why this was considered two units since everything is within one structure. Mr. Lovato said because the addition contains a kitchen and a bathroom it is considered a dwelling unit.

Karl Sommer, counsel for Ms. Jacobs, said this case arose out of a criminal action filed against the applicant who is in her late 80s. She was cited by the County for having three dwellings on her property. A “mother-in-law” quarters was added for someone to care for her, and she relied on her contractor that it was legal. Later, a permitted studio was built and a kitchen was included. It was rented once, resulting in a complaint by that tenant. The kitchen in the studio has been disabled.

Ms. Jacobs needs someone close by as she ages physically and mentally which constitutes a hardship.

Member Drobnis noted that he lives in the same community and has served on the Architectural Committee. He asked how long Ms. Jacobs had rented the unit. Mr.

Sommer said he understood it was under a year, adding he understood the new code would clarify guesthouse regulations. He suggested a condition in this case specifying the property shall comply with the new code and the property will not be rented separately.

Member DeAnda asked what the square foot of the original residence is and that of the attached section. Mr. Sommer said he did not know. Member DeAnda noted they appear to be of comparable size. Mr. Lovato said the original structure was 1,100 square feet and the adjoining part appears to be slightly less than that.

Member DeAnda asked whether these would be considered one dwelling if there was a doorway between them. Mr. Lovato replied that is not clear in the code, but he believed it would still be considered two separate dwellings. Mr. Sommer said there is a doorway between them now.

Member Anaya got confirmation both were under one roof.

Member Katz said he felt there was a compelling reason to grant the variance but he would like it to evaporate. Ms. Brown said nothing in the code allows temporary variances.

Duly sworn, Lacy Kyle, an adjacent neighbor, said her family has owned the property where she lives since 1988. In that time Ms. Jacobs' units have been 90 percent occupied. Although Ms. Jacobs claims only close friends and relatives rent from her, Ms. Kyle said that has never been the case. She has had run-ins with the ECLA. The small, separate unit was originally a garage. The doorway in the larger house is generally closed off.

Ms. Kyle agreed, based on her personal interactions, that Ms. Jacobs is in need of assistance. She recommended that one of the kitchens be removed since Ms. Jacobs is not competent to deal with it and a caretaker could use the single kitchen.

Mr. Sommer said he only knew of one rental, the one resulting in the complaint. He asked that the variance be granted and that it be subject to the constraints of a future code. "Immediate termination of that will place her in great risk."

Member Katz asked why one kitchen could not be used by a caretaker. Mr. Sommer said she had no one to care for her at this time.

Member Drobnis indicated there was one kitchen too many. Mr. Sommer said currently a renter lives there who is not a caretaker but is in close proximity so she is not entirely alone.

Member Drobnis mentioned his life experience where his wife was injured and required full-time care. It was important that the caretaker use the same kitchen. He noted that Eldorado is now under water restrictions, pointing up the stresses on the water supply so that allowing greater density would be an unfortunate precedent.

Member Drobnis moved to recommend denial of the variance. Member Katz seconded and the motion passed by unanimous [6-0] voice vote. [Member Martin was not present for this action.]

VIII. PETITIONS FROM THE FLOOR

None were presented.

IX. COMMUNICATIONS FROM THE COMMITTEE

In response to a question from Member Drobnis, Ms. Lucero said she was unsure when the new code would be presented. Ms. Brown estimated it would be a matter of months.

X. COMMUNICATIONS FROM THE ATTORNEY

None were presented.

XI. COMMUNICATIONS FROM STAFF

The next meeting was scheduled for July 18, 2013.

XII. ADJOURNMENT

Having completed the agenda and with no further business to come before this Committee, Chair Gonzales declared this meeting adjourned at approximately 8:45 p.m.

Approved by:

Juan José Gonzales, Chair
CDRC

Submitted by:

Debbie Doyle, Wordswork



Daniel "Danny" Mayfield
Commissioner, District 1
Miguel M. Chavez
Commissioner, District 2
Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4
Liz Stefanics
Commissioner, District 5
Katherine Miller
County Manager

DATE: August 13, 2013

TO: Board of County Commissioners

FROM: John Lovato, Development Review Specialist Sr.

VIA: Penny Ellis-Green, Land Use Administrator
Wayne Dalton, Building and Development Services Supervisor

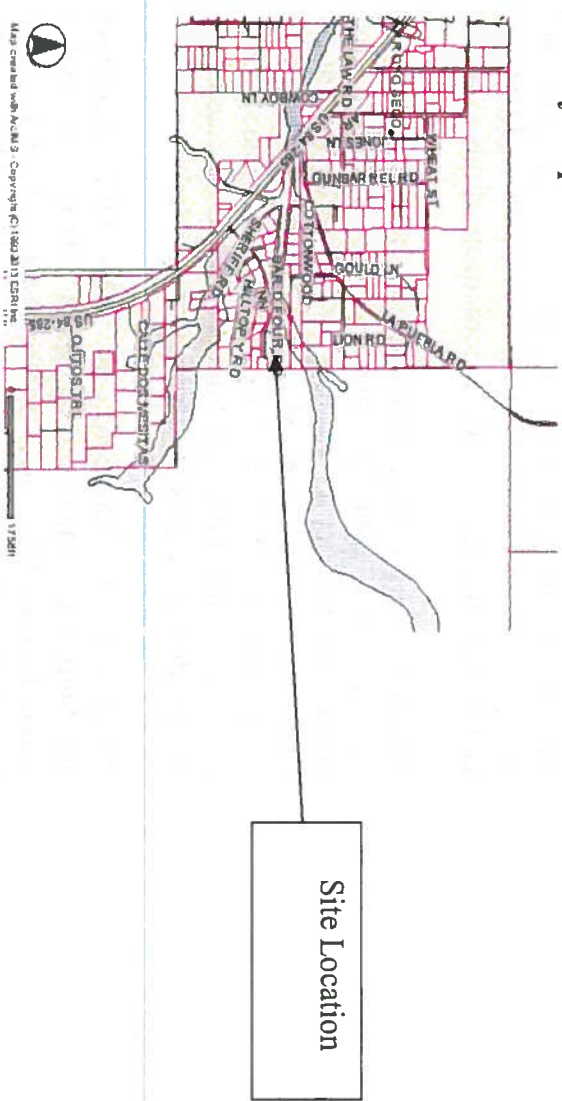
FILE REF.: CDRC CASE # V 13-5170 Roddy & Sherry Leeder Variance

ISSUE:

Roddy & Sherry Leeder, Applicants, Ralph Jaramillo, Agent, request a variance of Article III, Section 2.4.1a.2.b (Access) of the Land Development Code and a variance of Article 4, Section 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management) to allow a land division of 7.68 acres into four lots.

The property is located at 25 Bar D Four Road, in the vicinity of Arroyo Seco, within Section 18, Township 20 North, Range 9 East, (Commission District 1).

Vicinity Map:



REQUEST SUMMARY:

The Applicants request a variance to allow the land division of 7.68 acres into four lots. Access to the subject property would be off Bar D Four road which is a dirt road/private roadway crossing a FEMA designated Special Flood Hazard Area, via an existing low water concrete dip section which may be frequently impassible during inclement weather, and thereby is not all weather accessible.

There are currently three manufactured homes on the property. The applicants state they have seven children and plan on giving three of their children a lot. Three of the lots are to be divided into 0.75 acre lots and the remaining fourth lot will be 5.43 acres.

On June 20, 2013, the CDRC met and acted on this case, the decision of the CDRC was to recommend approval of the Applicant’s request by a 6-0 vote.

This Application was submitted on May 21, 2013.

APPROVAL SOUGHT:

Approval for a land division to allow 7.68 acres into four lots, which due to site conditions would require a variance from Article III, § 2.4.1a.2.b (Access) of the Land Development Code and a variance of Article 4, § 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management).

VARIANCES:

Article III, § 2.4.1a.2.b (Access) of the Land Development Code states: “All development sites under this Section shall demonstrate that access for ingress and egress, utility service and fire protection whether by public access and utility easement or direct access to a public right-of-way can be provided and meet the requirements of this Code”.

Article V, § 8.1.3 states “Legal access shall be provided to each lot and each lot must directly access a road constructed to meet the requirements of Section 8.2 of the Code. Parcels to be accessed via a driveway easement shall have a twenty (20) foot all weather driving surface, grade of not more than 11%, and drainage control as necessary to insure adequate access for emergency vehicles”.

Article 4, § 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management) states: “At no time shall a permit be issued for a new dwelling unit, site, lot, parcel or tract of land intended for placement of a habitable structure where the site is absent all weather access”.

Article II, § 3 (Variances) of the County Code states: “Where in the case of proposed development, it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted condition or that these conditions would result in inhibiting the achievement of the purposes of the Code, the applicant may submit a written request for a variance.” This Section goes on to state “In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified”.

GROWTH MANAGEMENT AREA: El Norte, SDA-2

HYDROLOGIC ZONE: Traditional Community of La Puebla, minimum lot size per Code is 0.75 acres per dwelling unit. Proposal meets minimum lot size criteria.

ACCESS: Via concrete low water dip section, does not comply with minimum Code criteria.

FIRE PROTECTION: La Puebla Fire District.

WATER SUPPLY: Domestic Well

LIQUID WASTE: Conventional Septic Systems

AGENCY REVIEW:	<u>Agency</u>	<u>Recommendation</u>
	County Fire	Denial
	Floodplain Manager	Denial

STAFF RECOMMENDATION: On May 14, 2013 the Board of County Commissioners voted for approval of a variance to allow the placement of a dwelling unit which accessed the same low water crossing. Due to this previous decision staff recommends approval of a variance from Article III, § 2.4.1a.2.b (Access) of the Land Development Code and approval of a variance of Article 4, § 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management) subject to the following conditions.

Staff recommends imposition of the following conditions:

1. Water use shall be restricted to 1.00 acre feet per year per lot. A water meter shall be installed for the proposed home. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office (**As per Article III, § 10.2.2 and Ordinance No. 2002-13**).
2. The Applicant shall comply with all Fire Prevention Division requirements at time of Development Permit Application (**As per 1997 Fire Code and 1997 Life Safety Code**).
3. A restriction must be placed on the Plat regarding the lack of all-weather access to the subject lot. This restriction shall include language as follows: the access to this property does not meet minimum standards set forth by County Ordinances and Code. Site access including access by emergency vehicles, may not be possible at all times (**As per Ordinance #2008-10**).

EXHIBITS:

1. Letter of request
2. Review Agency Comments
3. Article III, § 2.4.1a.2.b (Access)
4. Article V, § 8.1.3 (Legal Access)
5. Article 4, § 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management)
6. Article II, § 3 (Variances)
7. Site Plan
8. Site Photographs
9. Aerial of Site and Surrounding Area
10. June 20, 2013 CDRC meeting minutes

John F. Lovato

From: RALPH JARAMILLO <ralphjaramillo@gmail.com>
Sent: Tuesday, May 21, 2013 2:14 PM
To: John F. Lovato
Cc: RALPH JARAMILLO
Subject: 25 BAR D FOUR RD. LEEDER PROPERTY LOT SPLIT

DATE: May 21, 2013

TO: Santa Fe County Development Review Committee

From: Roddy & Sherry Leeder, Ralph Jaramillo, Agent

VIA: PennyEllis-Green, Land Use Administrator
John Lovato, Development Review Specialist Sr.
Wayne Dalton, Building and Development Services Supervisor

We Roddy & Sherry Leeder, Applicants, Ralph Jaramillo, Agent, request to acquire a Lot Split of four Lots on the 7.68 Acres that are in the vicinity of the Arroyo Seco area.

The property is located at 25 Bar D Four Road, within Section 18, Township 20 North, Range 9 East, (Commission District 1).

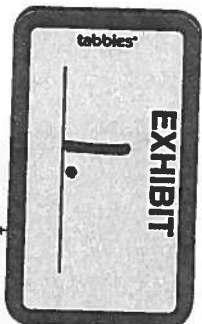
We have seven children and we plan to give to our children a piece of property with a mobile home structure. We currently have three mobile homes on the property and would ask to acquire one more for a total of four Mobile Homes along with the Lot Split.

This property is in the Traditional Community of La Puebla, minimum lot size per Code is 0.75 acres per dwelling. We would like to split the property into (3) 0.75 acres and the remaining (1) lot to be 5.43 acres.

We understand that a restriction must be placed on the Warranty Deeds of the Four Lots to be split regarding the lack of all-weather access to the subject lots. This restriction shall include language as follows: The access to this property does not meet minimum standards set forth by County Ordinances and Code. Site access including access by emergency vehicles, may not be possible at all times. (As per Ordinance #2008-10).

Thank you for your Consideration,

Roddy and Sherry Leeder
Ralph Jaramillo, Agent





Santa Fe County Fire Department

Fire Prevention Division

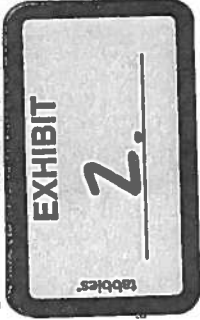
Official Development Review

Date 3/4/2013
 Project Name Leader, Roddy
 Project Location 25 Bar D Four Road in Arroyo Seco
 Description Variance to Flood Plain
 Case Manager J. Lovato
 Applicant Name Roddy and Sherry Leeder
 County Case # 13-5040
 Applicant Address 25 Bard D Four Road
 Fire District La Puebla
 Santa Fe, NM 87506
 Applicant Phone 505-490-7720 (agent Ralph Jaramillo)
 Review Type: Commercial ☐ Residential ☒ Sprinklers ☐ Hydrant Acceptance ☐
 Master Plan ☐ Preliminary ☐ Final ☐ Inspection ☐ Lot Split ☐
 Variance ☒
 Project Status: Approved ☐ Approved with Conditions ☐ Denial ☒

The Fire Prevention Divison/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

- The primary access to this property goes through a low water crossing that does not meet Santa Fe County Fire Department Access Road requirements of an all-weather driving surface. The Santa Fe County Fire Prevention Division is not able to approve this project without additional fire safety requirements which meet the 1997 Uniform Fire Code, Article 9, Section 902.2.1 requirements. (*page #2*)
- The circle drive that was approved in July 2010 no longer exists. An emergency vehicle turn around meeting Santa Fe County Fire Department Access Road requirements shall replace the circle drive that was removed. (*page #2*)
- Properly assigned legible rural addresses shall be posted and maintained at the entrance(s) to each individual lot or building site. (*page #2*)



- Due to its remote location and the possibility of this residence being made inaccessible due to inclement and various other weather conditions, for life safety and property protection this office requires the installation of Automatic Fire Protection Sprinkler systems meeting NFPA13D requirements (per 1997 UFC – Article 10 Section 1001.9: Special Hazards). (page 3)

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

▪ 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.

The primary access to this property goes through a low water crossing that does not meet Santa Fe County Fire Department Access Road requirements of an all-weather driving surface. The Santa Fe County Fire Prevention Division is not able to approve this project without additional fire safety requirements which meet the 1997 Uniform Fire Code, Article 9, Section 902.2.1 requirements.

The circle drive that was approved in July 2010 has not been built. The circle drive or a turn around meeting Santa Fe County Fire Department Access Road requirements shall be built prior to approval.

▪ Street Signs/Rural Address

Section 901.4.4 Premises Identification (1997 UFC) Approved numbers or addresses shall be provided for all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property.

Section 901.4.5 Street or Road Signs. (1997 UFC) When required by the Chief, streets and roads shall be identified with approved signs.

Properly assigned legible rural addresses shall be posted and maintained at the entrance(s) to each individual lot or building site within 72 hours of the commencement of the development process for each building.

▪ Slope/Road Grade

Section 902.2.2.6 Grade (1997 UFC) *The gradient for a fire apparatus access road shall not exceed the maximum approved.*

This driveway/fire access shall/does not exceed 11% slope and shall have a minimum 28’ inside radius on curves.

• **Restricted Access/Gates/Security Systems**

Section 902.4 Key Boxes. (1997 UFC) *When access to or within a structure or an area is unduly difficult because of secured openings or where immediate access is necessary for life-saving or firefighting purposes, the chief is authorized to require a key box to be installed in an accessible location. The key box shall be of an approved type and shall contain keys to gain necessary access as required by the chief.*

To prevent the possibility of emergency responders being locked out, all access gates should be operable by means of a key or key switch, which is keyed to the Santa Fe County Emergency Access System (Knox Rapid Entry System). Details and information are available through the Fire Prevention office.

Automatic Fire Protection/Suppression

Due to its remote location and the possibility of this residence being made inaccessible due to inclement and various other weather conditions, for life safety and property protection this office requires the installation of Automatic Fire Protection Sprinkler systems meeting NFPA 13D requirements (per 1997 UFC – Article 10 Section 1001.9: Special Hazards).

All Automatic Fire Protection systems shall be developed by a firm certified to perform and design such systems. Copies of sprinkler system design shall be submitted to the Fire Prevention Division for review and acceptance prior to construction. Systems will not be approved unless tested by the Santa Fe County Fire Department. Fire sprinklers systems shall meet all requirements of NFPA 13-D Standard for the Installation of Sprinkler Systems.

All sprinkler and alarm systems as required shall be tested and approved by the Santa Fe County Fire Department, prior to allowing any occupancy to take place. It shall be the responsibility of the installer and/or developer to notify the Fire Prevention Division when the system is ready for testing.

Life Safety

Fire Protection requirements listed for this development have taken into consideration the hazard factors of potential occupancies as presented in the developer’s proposed use list. Each and every individual structure of a private occupancy designation will be reviewed and must meet compliance with the Santa Fe County Fire Code (1997 Uniform Fire Code and applicable NFPA standards) and the 1997 NFPA 101, Life Safety Code, which have been adopted by the State of New Mexico and/or the County of Santa Fe.

General Requirements/Comments

Inspections/Acceptance Tests

Shall comply with Article 1, Section 103.3.2 - New Construction and Alterations of the 1997 Uniform Fire Code, inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal.

The developer shall call for and submit to a final inspection by this office prior to the approval of the Certificate of Occupancy to ensure compliance to the requirements of the Santa Fe County Fire Code (1997 UFGC and applicable NFPA standards) and the 1997 NFPA 101, Life Safety Code.

Prior to acceptance and upon completion of the permitted work, the Contractor/Owner shall call for and submit to a final inspection by this office for confirmation of compliance with the above requirements and applicable Codes.

Permits

As required

Final Status

Recommendation for Final Development Plan 13N1A1 is applied.

Victoria DeVargas, Inspector

Code Enforcement Official, Victoria DeVargas Date 3/5/13

Through David Spelling, Chief/Fire Marshal
Betsy Patis, Fire Prevention Captain

Title: Northleg/Dykeville/Alachua/Redd Road, VAR.doc

Utility and Use
Applicant
District Chief
File

Enclosed Fire Department Access Requirements
(if applicable)

Daniel “Danny” Mayfield
Commissioner, District 1
Virginia Vigil
Commissioner, District 2
Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4
Liz Stefanics
Commissioner, District 5
Katherine Miller
County Manager

MEMORANDUM

DATE: June 12, 2013

TO: John Lovato, Development Review Specialist Senior

FROM: Vicki Lucero, CFM, Building and Development Services Department Manager, *VL*
Floodplain Administrator

REF.: CDRC Case # V 13-5170 Roddy and Sherry Leeder

The Applicant is requesting approval to allow a land division of 7.68 acres into four lots. The proposed lots will not be benefited by all weather access as required by Code. This application has been reviewed specifically for compliance to Ordinance 2008-10 (Flood Damage Prevention and Stormwater Management Ordinance).

Article 4, Section 4.2 states: “At no time shall a Floodplain Development Permit be issued for a new dwelling unit, site, lot, parcel or tract of land intended for placement of a habitable structure including single family homes, residential subdivisions, etc, when ... the site is absent all weather access. A Floodplain Development Permit will not be issued based upon the following:

1. Bar D Four Road, used to access the subject parcel, is within a federally mapped Special Flood Hazard Area, Zone A. The Zone A designation indicates these areas will be inundated by floodwater during the 1% recurrence interval storm event, or 100-year storm. This area is unstudied by FEMA and depth, velocity and duration of inundation are not provided.
2. The site is accessed by a concrete low water crossing, which does not provide dry access for emergency vehicles during storm events.
3. Section 5.11 (Basis for Approval or Denial) (E) states: “Approval or Denial of a Stormwater Management Analysis (none provided by applicant), that approval may not be given when certain relevant factors are present”, including “The safety of access to the property in times of flood for ordinary and emergency vehicles “
 - a. The applicant has not provided a Stormwater Analysis which identifies the quantity, depth, and velocity of the flow present in the dip section. This information would be needed to assess the potential danger of this crossing. Note that flow depths of as little as 12”, when velocity is considered, are enough to wash away or create buoyancy of an average vehicle. Additional danger arises when motorists are unable to view the driving surface and enter inundated areas. Injury or death can occur if

the driving surface has been scoured away by high velocity floodwater, and unknowing motorists often attempt to cross these inundated areas without regard for the surface of the road. Notably, death during flash flood events are surpassed only by hurricane fatalities, and more deaths occur nationwide from flood related deaths than any other natural disaster. This is a dangerous and sometimes deadly situation.

b. As a minimum, the applicant should be required to provide an analysis of the depth and velocity of flooding expected at this crossing using the methodology and techniques presented in Ordinance 2008-10, and place a culvert or other conveyance as needed based on the report to provide dry access for emergency vehicles.

4. Ordinance 2008-10 contains specific criterion that recommending and approval bodies must consider. These are copied below:

- A. *The Board of County Commissioners (Board) after recommendation by the County Development Review Committee (CDRC) shall hear and render judgment on a request for variance from the requirements of this Ordinance.*
- B. *The CDRC may recommend and the Board take action on an appeal of the Floodplain Administrator's decision only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Ordinance.*
- C. *Any person or persons aggrieved by the decision of the Board may appeal such decision to a court of competent jurisdiction within thirty days of the Board's decision.*
- D. *The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.*
- E. *Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Ordinance.*
- F. *Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C(2) of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.*
- G. *Upon consideration of the factors noted above and the intent of this Ordinance, the Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Ordinance (Article I, Section C).*
- H. *Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.*
- I. *Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.*

J. Prerequisites for granting variances:

1. Variances shall only be issued upon a determination that the variance is the minimum necessary; considering the flood hazard, to afford relief.
2. Variances shall only be issued upon, (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, the creation of a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
3. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
4. Variances may be issued by the Board for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in Article 4, Section D(1)-(9) are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Finding:

This application does not meet the standards required for the creation of lots as described in the Code and Ordinance 2008-10, and in considering the criteria for variance issuance as noted above does not meet these criteria, therefore as Santa Fe County Floodplain Administrator, it is recommended that this variance is denied based on the lack of all weather access to the proposed home.

Be advised that should the BCC recommend approval of this variance, as noted in the federally mandated conditions for variance, FEMA must be notified of this decision as required by Federal Code of Regulations.

Should the BCC approve this case the following note should be placed on the Plat:

The access to this property does not meet minimum standards set forth by County Ordinance and Code. Site access, including access by Emergency vehicles, may not be possible at all times.

submitted list and explanation with the development permit application form.

2. Reviews

(a) Lot Size Requirement Review

The Code Administrator shall review the application for compliance with the lot size requirements of the Code.

(b) Access

- (i) All development sites created under this Section shall demonstrate that access for ingress and egress, utility service, and fire protection whether by public access and utility easement or direct access to a public right-of-way can be provided and meet the requirements of this Code.
- (ii) Installation of culverts, where applicable, shall be required at intersections of driveways with County roads.
- (iii) Road Construction and/or Road Cut Permits must be obtained prior to road or driveways construction. The applicant must provide submittals for new construction pursuant to this Section 2.4.1 and meet standards as applicable and as required in Article V, Section 8, Subdivision Design Standards, and Article VII, Section 3, Terrain Management. Notification of all affected property owners and posting of notice will be required for roads and driveways accessing more than one property.

(c) Special District Review

The Code Administrator shall check the location of the proposed dwelling, and if the location of the proposed dwelling is within a Special Review District as described in Article VI, the Code Administrator shall inform the applicant of any additional submittals or reviews required, if any, and make the applicable review.

(d) Environmental Review

The Code Administrator shall inform the applicant of any additional submittals and make the reviews required under Article VII - Environmental Requirements.

(e) Siting Review

The Code Administrator shall review the application for compliance with the site planning standards. Additional submittals in connection with the siting may be required; site visits to assure compliance with the standards of Section 2.3 of this Article and approval of the Code Administrator will also be required.

(f) Building, Mechanical and Electrical Code Review

The Code Administrator shall cause the submitted plans and specifications to be reviewed for compliance with Article IV - Construction Codes of the Code and for engineering design.



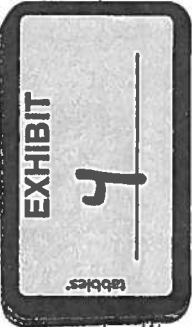
- 8.1.2 The Santa Fe County Master Plan For Roads
- a. Pursuant to 3-19-9 N.M.S.A., 1978, the Santa Fe County Master Plan for Roads establishes the general location of existing and proposed highway and arterial roads for the purpose of assuring a coordinated system of roads in Santa Fe County.
 - b. The Santa Fe County Master Plan for Roads may be amended by resolution from time to time to accommodate changing or changed conditions.

8.1.3 Legal access shall be provided to each lot and each lot must directly access a road constructed to meet the requirements of Section 8.2 of this Article. Parcels to be accessed via a driveway easement shall have a twenty (20) foot all weather driving surface, grade of not more than 11%, and drainage control as necessary to insure adequate access for emergency vehicles.

8.1.4 Dead end roads may not serve more than thirty (30) dwelling units, except that the Code Administrator with the concurrence of the Fire Marshal may approve the development of more than thirty (30) lots on a dead end road. The Code Administrator may require a second access for any development with fewer than thirty (30) dwelling units where issues of public health, safety and welfare exists.

- 8.1.5 Coordination of Roads With Surrounding Property
- a. The arrangement of roads in a development shall provide for the continuation or appropriate projection of existing or proposed highway or arterial roads in surrounding areas according to the Santa Fe County Master Plan for Roads, and shall provide reasonable means of ingress and egress to surrounding property.
 - b. Where land is subdivided into large tracts or where there is a potential for further subdivision or development of subsequent phases exists, the proposed development shall be designed to provide for a coordinated road system for the entire tract.
 - c. Where it is in the public interest to establish a right-of-way or access to property which adjoins a proposed development, the right-of-way shall be extended to the boundary of the property which is the subject of a development application. The right-of-way shall either be dedicated to the County or granted to the Owner's Association, subject to a conditional dedication governed by Article V, Section 8.1.9. Such right-of-way shall be designated on the master or phase development plan and on the plat as a public access.

- 8.1.6 Access to highways and arterials; buffering requirements
- a. Where a proposed subdivision contains lots abutting or adjacent to an arterial or highway, it shall be planned so as to avoid having lots having frontage on said thoroughfares.
 - b. The subdivision shall be laid out to have a minimum number of intersections with arterials or highways, and where appropriate, shall provide at least two separate points of ingress and egress to assure adequate access, and shall be designed for all weather conditions. Driveways from lots shall access local roads and may access collector roads on a limited basis as approved by the County Development Review Committee.
 - c. Where the subdivision is traversed by or is adjacent to a state or federal highway, and in addition to these regulations, the subdivision must satisfy the New Mexico State Highway Department Regulations Covering Design and Construction of Driveways on Non-Controlled Access Highways in New Mexico, a copy of which is on file in the office of the Code Administrator for public inspection.
 - d. Where a subdivision borders on or contains a railroad right-of-way or a limited access highway right-of-way, a parallel road or frontage road may be required at a distance suitable for the appropriate use of the intervening land. Such distances shall also be



ARTICLE 4

FLOODPLAIN DEVELOPMENT PERMIT PROCEDURAL
REQUIREMENTS

SECTION 4.1 AREAS REQUIRING A FLOODPLAIN
DEVELOPMENT PERMIT

A. For development within a designated SFHA, including lands which are traversed by, bisected by, or directly adjacent to the SFHA designated on the effective FIRM as described in Article 2, §2.2C, Article 3, §3.2 and Article 3, §3.10, a Floodplain Development Permit issued by the Floodplain Administrator in conformity with the provisions of the Ordinance shall be secured pursuant to Article 3, §3.3(B) prior to commencement of construction.

SECTION 4.2 NONELIGIBLE NEW DEVELOPMENT OR CONSTRUCTION

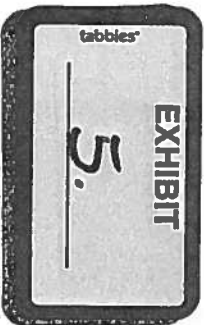
At no time shall a Floodplain Development Permit be issued for a new dwelling unit site, lot, parcel or tract of land intended for placement of a habitable structure including single family homes, residential subdivisions, modular home sites and modular home subdivisions where the site is:

- i. An alternative buildable area located outside the limits of the SFHA is available;
- ii. Unable to be removed from the SFHA through the formal FEMA map revision process described in Article 4, §4.4;
- iii. Absent all weather access.

SECTION 4.3 PROCEDURES FOR SUBDIVISION PROPOSALS

All subdivision proposals which include area traversed by, bisected by, or directly adjacent to SFHA, including manufactured home parks and manufactured home subdivisions shall be required to secure a Floodplain Development Permit per Article 4, §4.4, and:

- A. SFHA may be used in computation of density;
- B. SFHA may be utilized to meet open space criteria;
- C. Primary and secondary subdivision access as required by County Code must be all weather access;
- D. For phased subdivisions, an overall Master Drainage Analysis shall be provided which demonstrates that floodplain management policies and stormwater management criteria will be compliant with this Ordinance and function independently in each phase, or construction of the entire conveyance system will be required in the first phase of construction.



2.5 Zoning

In connection with the review of an application for a development permit with respect to matters described in the New Mexico Statutes concerning zoning, the procedures concerning zoning matters set forth in the New Mexico Statutes, as amended from time to time, shall apply in addition to the review procedures provided in the Code. The time limits established in this Article II may be extended if required, in order to comply with the procedures concerning zoning matters.

2.6 Subdivisions

In connection with review of an application for a development permit with respect to matters described in the New Mexico Subdivision Act, as it may be amended from time to time, the procedures for review provided for in Article V of the Code and the New Mexico Subdivision Act shall apply in addition to the review procedures provided in this Article II of the Code. The time limits established in this Article II shall be extended if required in order to comply with the procedures concerning subdivision matters

2.7 Other Requirements

The time limits set forth in this Article II shall be extended in order to comply with other provisions of the Code providing for time limits in connection with reviews and requirements under the Code.

SECTION 3 - VARIANCES

3.1 Proposed Development

Where in the case of proposed development, it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A Development Review Committee may recommend to the Board and the Board may vary, modify or waive the requirements of the Code and upon adequate proof that compliance with Code provision at issue will result in an arbitrary and unreasonable taking or property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety. In arriving at its determination, the Development Review Committee and the Board shall carefully consider the opinions of any agency requested to review and comment on the variance request. In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified.

3.2 Variation or Modification

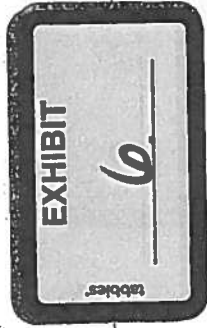
In no case shall any variation or modification be more than a minimum easing of the requirements.

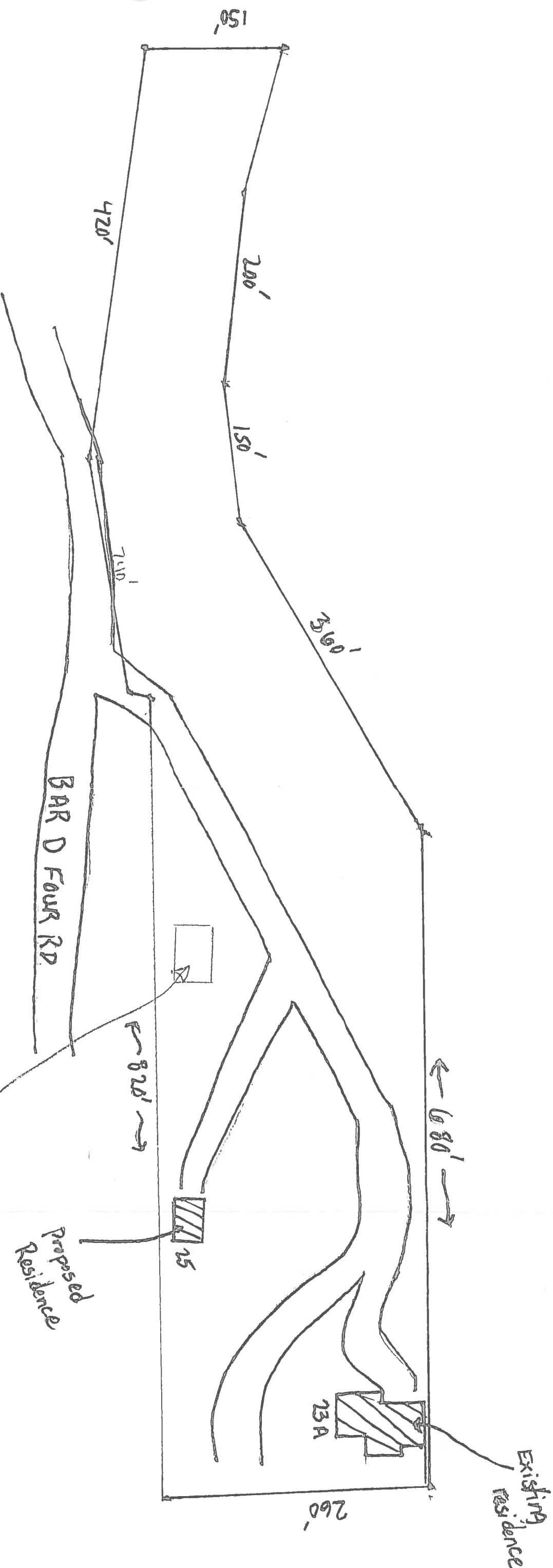
3.3 Granting Variances and Modifications

In granting variances, and modifications, the Board may require such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified

3.4 Height Variance in Airport Zones

All height variance requests for land located with approach, Transitional, Horizontal and Conical surfaces as described within Map #31 A, incorporated herein by reference, shall be reviewed for compliance with Federal Aviation Administration Regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the





Scale 1" = 100' FT
 Roddy & Sherry Leeder
 25 BAR D FOUR RD.



Roddy & Sherry

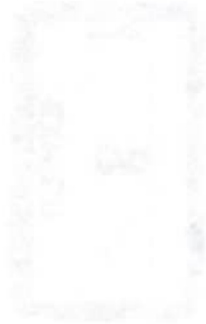
Leader

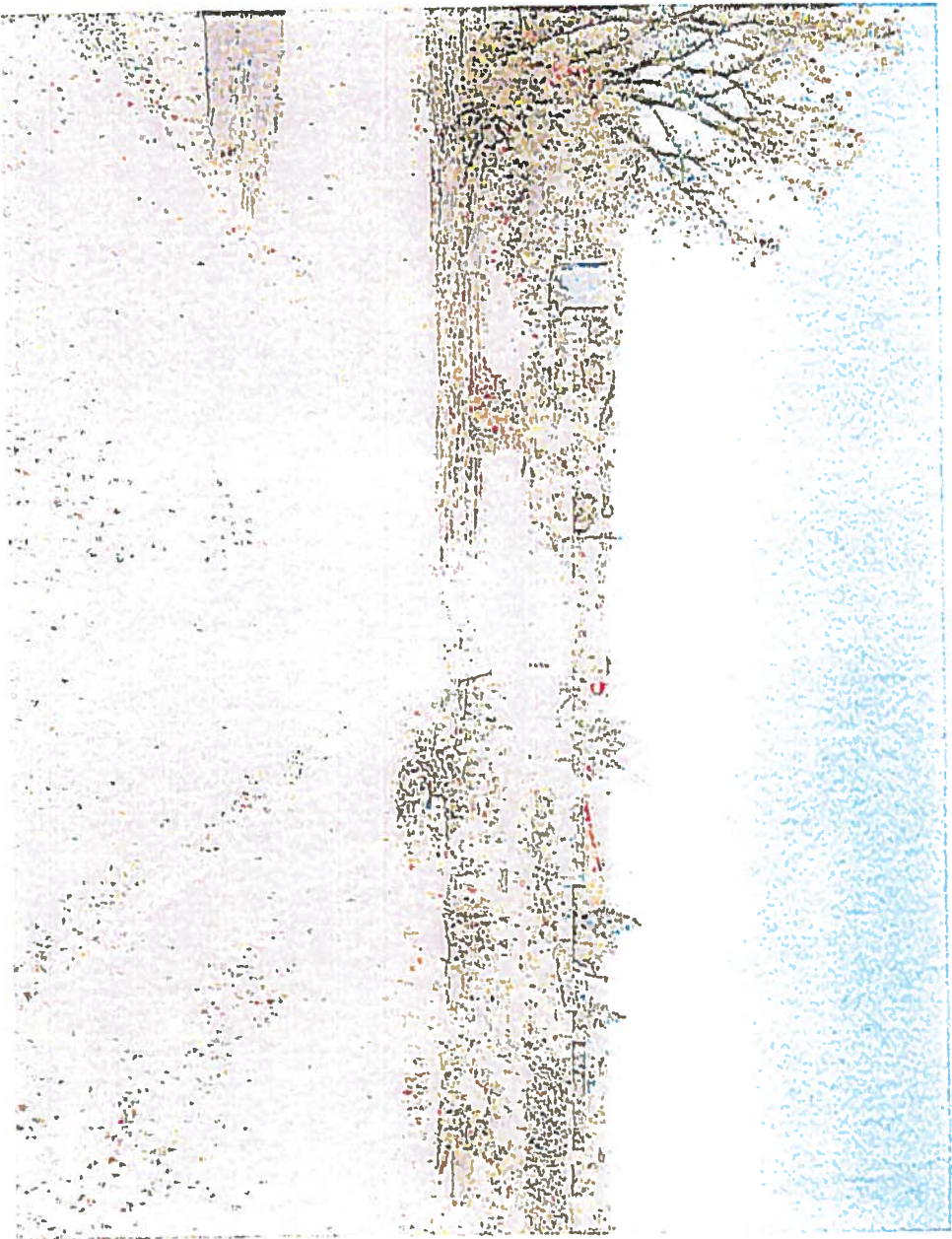




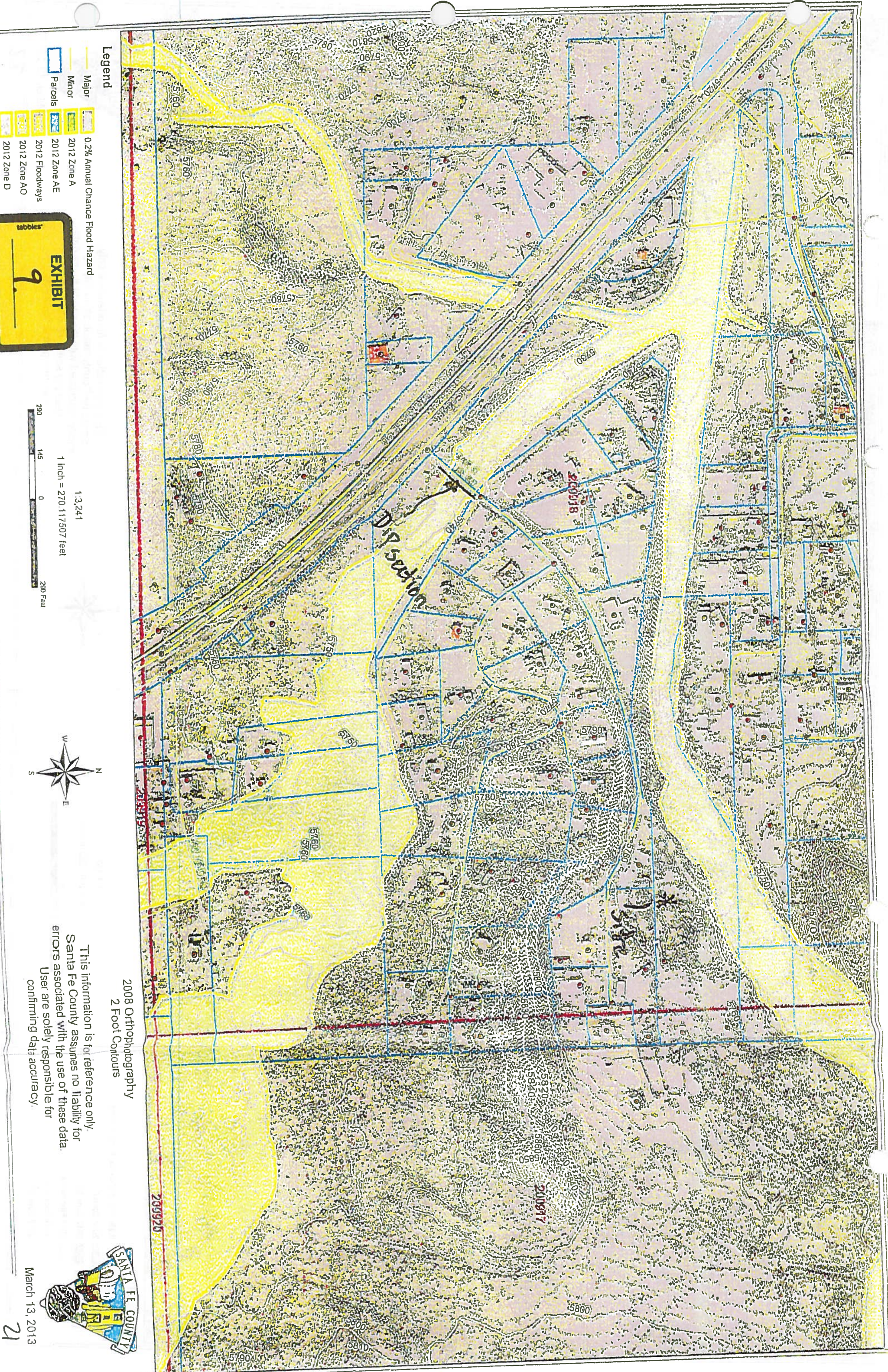
Roddy & Sherry

Leeder





Roddy & Sherry
Leader



Legend

- Major
- Minor
- Parcels
- 0.2% Annual Chance Flood Hazard
- 2012 Zone A
- 2012 Zone AE
- 2012 Floodways
- 2012 Zone AO
- 2012 Zone D



1:3,241
1 inch = 270 feet
290 145 0 290 Feet

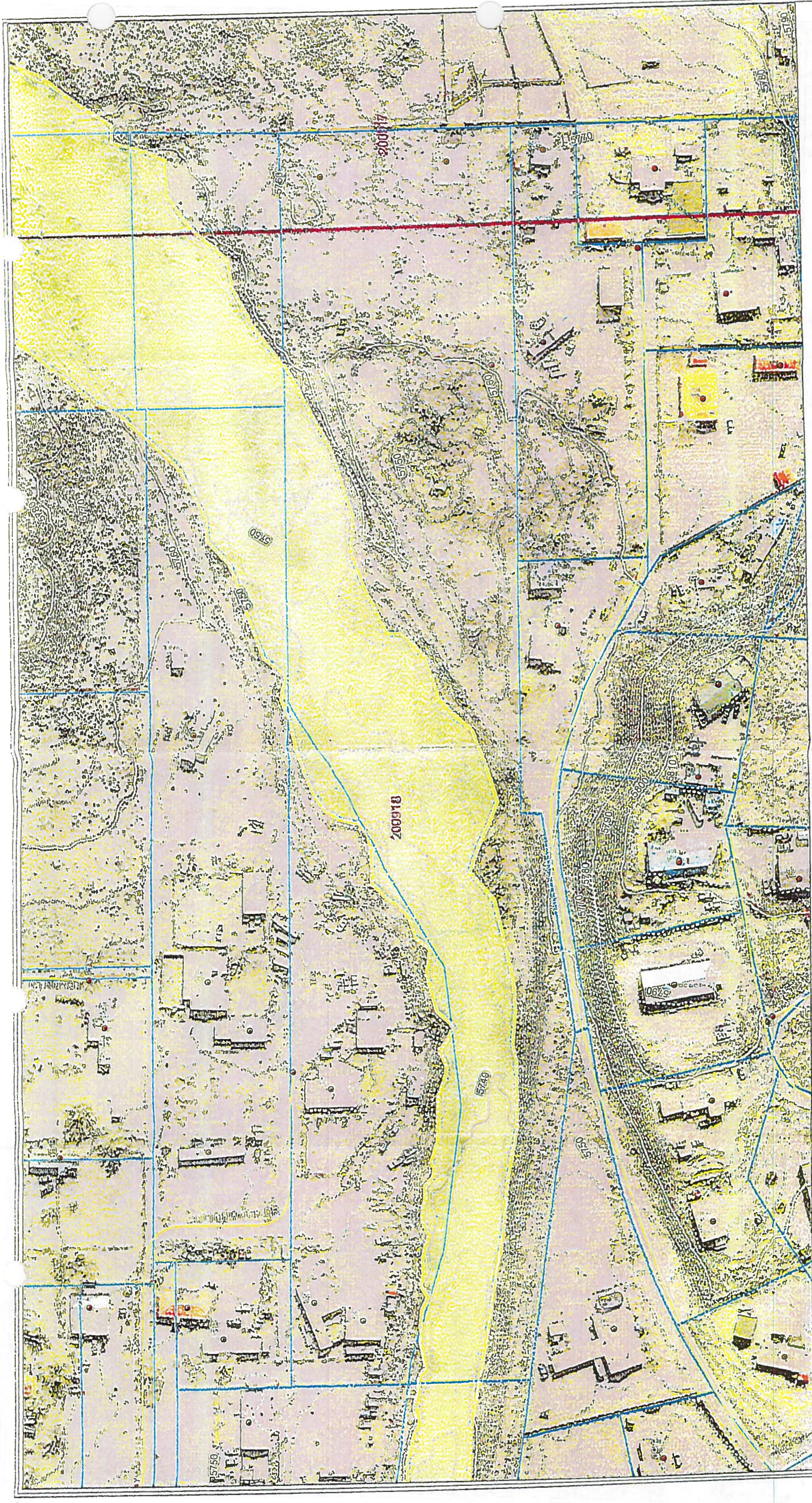


This information is for reference only.
Santa Fe County assumes no liability for
errors associated with the use of these data.
User are solely responsible for
confirming data accuracy.

2008 Orthophotography
2 Foot Contours



March 13, 2013



March 13, 2013

2008 Orthophotography
2 Foot Contours

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confirming data accuracy.



- Legend**
- Major
 - Minor
 - Parcels
 - 0.2% Annual Chance Flood Hazard
 - 2012 Zone A
 - 2012 Zone AE
 - 2012 Floodways
 - 2012 Zone AO
 - 2012 Zone D

III. APPROVAL OF AGENDA

Ms. Lucero suggested moving the La Bajada case to the top of the agenda. Chair Gonzales noted that many people had not yet arrived and would be anticipating that case would be heard later.

Member Martin moved approval of the agenda as published and Member Katz seconded. The motion carried by unanimous [6-0] voice vote. [Member Anaya was not present for this action.]

IV. APPROVAL OF MINUTES: May 16, 2013

Member Katz moved to approve the May minutes as submitted. Member Drobnis seconded and the motion passed by unanimous [6-0] voice vote. [Member Anaya was not present for this action.]

V. OLD BUSINESS

- A. CDRC CASE # Z/S 12-5450 Cielo Colorado Subdivision. Cielo Colorado, LLC. Applicant, Jim Siebert, Agent, Request Master Plan Zoning Approval for a 24-Lot Residential Subdivision on 246.30+ Acres within Tract 15A-2 of the Eldorado at Santa Fe Subdivision. The Applicant Also Requests to Allow Two Cul-de-Sacs (Dead End Roads) to Exceed 500 Feet in Length. The Property is Located on the East Side of US 285, Off Camino Acote, within Sections 21 & 22, Township 15 North, Range 10 East (Commission District 4). Jose E. Larrañaga, Case Manager (TABLED)

VII. NEW BUSINESS

- A. CDRC CASE # V 13-5040 Ellen Jacobs Variance

Mr. Lovato noted that the applicant was not present and the case was moved to the end of the agenda.

B. CDRC CASE # V 13-5170 Roddy & Sherry Leeder Variance. Roddy &

Sherry Leeder, Applicants, Ralph Jaramillo Agent, Request a Variance of Article III, Section 2.4.1a.2.b (Access) of the Land Development Code and a Variance of Article 4, Section 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management) to Allow a Land Division of 7.68 Acres Into Four Lots. The Property is Located at 25 Bar D Four Road, in the Vicinity of Arroyo Seco, within Section 18, Township 20 North, Range 9 East, Commission District 1

Mr. Lovato read the case caption and gave the following staff report:

“The Applicants request a variance to allow the land division of 7.68 acres into four lots. Access to the subject property would be off Bar D Four Road which is a



dirt road/private roadway crossing a FEMA designated Special Flood Hazard Area, via an existing low water concrete dip section which may be frequently impassible during inclement weather, and thereby is not all weather accessible.

“There are currently three manufactured homes on the property. The applicants state they have seven children and plan on giving three of their children a lot. Three of the lots are to be divided into 0.75-acre lots and the remaining fourth lot will be 5.43 acres.”

Mr. Lovato gave the staff recommendation as follows: On May 14, 2013 the Board of County Commissioners voted for approval of a variance to allow the placement of a dwelling unit which accessed the same low water crossing. Due to this previous decision staff recommends approval of a variance from Article III, § 2.4.1a.2.b (Access) of the Land Development Code and approval of a variance of Article 4, § 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management) subject to the following conditions.

1. Water use shall be restricted to 1.00 acre-feet per year per lot. A water meter shall be installed for the proposed home. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk’s Office (As per Article III, § 10.2.2 and Ordinance No. 2002-13).
2. The Applicant shall comply with all Fire Prevention Division requirements at time of Development Permit Application (As per 1997 Fire Code and 1997 Life Safety Code).
3. A restriction must be placed on the Plat regarding the lack of all-weather access to the subject lot. This restriction shall include language as follows: the access to this property does not meet minimum standards set forth by County Ordinances and Code. Site access including access by emergency vehicles, may not be possible at all times (As per Ordinance #2008-10).

Agent for the applicants, Ralph Jaramillo was placed under oath and said the Leeders are hoping to divide the land to be able to give it to their seven kids. Initially, the only issue was the FEMA ordinance and a variance was obtained for that provision.

There was no one from the public wishing to speak.

Member DeAnda moved to approve CDRC CASE # V 13-5170, Roddy and Sherry Leeder Variance with staff conditions. Member Katz seconded and the motion passed unanimously [6-0]. [Member Anaya was not present for this action.]

Daniel "Danny" Mayfield
Commissioner, District 1
Miguel M. Chavez
Commissioner, District 2
Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4
Liz Stefanics
Commissioner, District 5
Katherine Miller
County Manager

DATE: August 13, 2013

TO: Board of County Commissioners

FROM: Jose E. Larrañaga, Commercial Development Case Manager

VIA: Vicki Lucero, Building and Development Services Manager *gelf*
Wayne Dalton, Building and Development Services Supervisor *WD*
Penny Ellis-Green, Land Use Administrator *PEG*

FILE REF.: CDRC CASE # V/Z/PDP 13-5080 Windmill Water Variance, Master Plan & Preliminary Development Plan

ISSUE:

Diana & Leon Richter, Applicants, Jim Siebert, Agent, request Master Plan Zoning & Preliminary Development Plan approval to allow a small scale commercial use consisting of a domestic water supply service. This request includes a variance of Article VII, Section 6.4.1d (Requirements for Water Availability Assessments). The Applicant also requests that Final Development Plan be approved administratively. The property is located at 2042 Old U.S. 66, near the Town of Edgewood, within Section 34, Township 10 North, Range 7 East, (Commission District 3).

SUMMARY:

This case is being tabled, at the request of the Applicant, do to conflicts with the Applicants travel and work schedule.



**JAMES W. SIEBERT
AND ASSOCIATES, INC.**

915 MERCER STREET * SANTA FE, NEW MEXICO 87505
(505) 983-5588 * FAX (505) 989-7313
jim@jwsiebert.com

MEMORANDUM

Date: August 5, 2013

To: Jose Larranaga

From: James W. Siebert

Re: Tabling Request for Windmill Water Master Plan

On behalf of Diane and Leon Richter, I am requesting a tabling from the August 13th, 2013 BCC hearing. The clients will be out of town on August 13th.

Please schedule the case to be heard at the BCC meeting of September 10.



