



Los Alamos County

Community Development Department

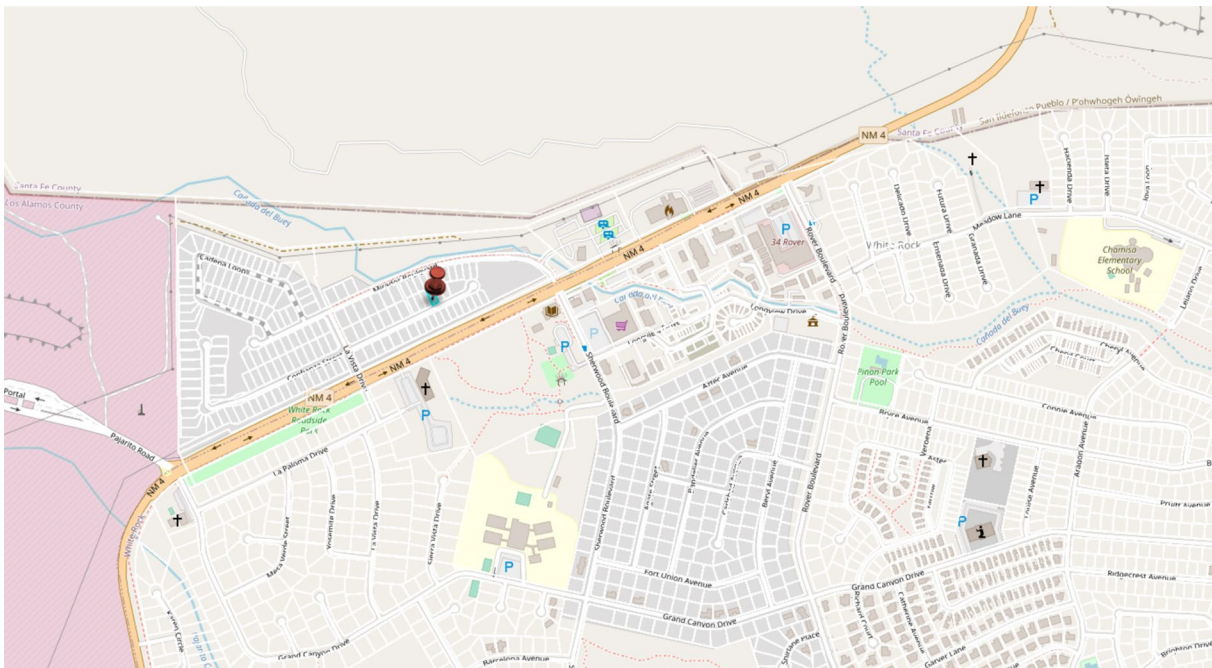
PLANNING & ZONING COMMISSION STAFF REPORT

Public Hearing Date: September 13, 2023
Subject: Case No. VAR-2023-0000
Owners/Applicants: Robert Qualick, Applicant/Property Owner
Case Manager: Desirae J. Lujan, Associate Planner

Case No. VAR-2023-0000:

Robert Qualick, Property Owner/Applicant, is requesting a variance from Development Code, Use Regulations, to construct a 192 sq.ft. accessory structure less than 5-feet from property lines at 100 Confianza St., White Rock, NM. The property, MIR05022, is within the Mirador Subdivision and the White Rock Town Center (WRTC) zone district.

See Exhibit 1: Application Packet



Location Area – Illustration A



Vicinity Area – Illustration B

BACKGROUND AND HISTORY

- June 13, 2023, Los Alamos County Code Compliance received an anonymous complaint regarding construction of a brick structure at 100 Confianza St. Upon a site visit and verification that a permit was not issued - the Code Compliance Officer provided the property owner with a Courtesy Letter, which notified him that the erection of any accessory structure requires a permit prior to starting construction. [ref: 16-18(b)(1)]. Robert Qualick (“Property Owner”) responded that he would work to remedy the issue.
- June 26, 2023, Community Development received an application for the construction of a 12’X16’ accessory structure. The site plan submitted depicted the structure to be 50” from the rear property line and 57” from the side property line. [BLDR-2023-06392]
- July 3, 2023, Planning Division applied the Development Code to the application and notified the Property Owner that the permit had been denied. It was communicated that denial was based on non-compliance with Los Alamos County Code of Ordinances, Section 16-18(b)(9): *“In any zone district, no accessory structure shall be located within five feet of any lot line.”*
- July 6, 2023, the Property Owner contacted staff and provided photos, measurements and details concerning the structure. He inquired a path forward. After evaluation by staff, a site visit was conducted to verify measurements. Thereafter, staff continued research of the Development Code and the Mirador Subdivision zoning and approvals. As a result, it was determined that a Variance application would be accepted and was the best path forward.

SUMMARY

Robert Qualick is requesting a variance to continue construction of a 192 sq.ft. block accessory structure in the rear yard of 100 Confianza St., White Rock, NM. The property is located within the Mirador Subdivision and zoned White Rock Town Center (WRTC). Section 16-14, Table 26: Permitted Use Table, indicates that an accessory structure is permitted within the WRTC, subject to the Use Specific Standards within Section 16-18(b), Accessory Structures:

(1) The erection of any accessory structure requires an accessory structure building permit pursuant to section 16-73(c) prior to commencing construction.

A building permit (BLDR-2023-06392) application was submitted and denied. Its denial is the reason for VAR-2023-0000, a request for variance. Should the variance be approved, the applicant may resubmit the permit application for issuance. If denied, the property will continue to be non-compliant with the Development Code and addressed through the Code Compliance process and procedures.

(2) Accessory structures shall comply with any maximums and dimensional standards of the underlying zone district in which they are located, pursuant to article II, Zone Districts.

The WRTC zone district dimensional standards have been met as listed in Section 16-6(b), Table 15, and as applicable to accessory structures:

	Dimensional Standard	Proposed
Accessory Structure Height	15', max.	11'-6"
Lot Coverage	100%, max	39%

(3) Unless otherwise specified within this Code, accessory structures shall be a maximum height of 15 feet.

The height of the structure will comply at 11'-6".

(4) No accessory structure, except as modified below, may be located closer to the front property line than the main structure on any lot.

The structure complies as it is proposed to be in the rear yard and behind the main structure.

(5) Garages and carports may be located in the front yard behind the minimum front setback in any residential zone district.

Not applicable.

(6) No other accessory structure may be located in the front yard within 40 feet of the front property line in any zone district.

The structure complies as it is proposed to be in the far corner of the rear yard.

(7) No accessory structures shall be located in required side setbacks in any zone district.

The WRTC does not have a required setback as all its setback regulations are zero. However, accessory structure standards require a minimum of 5', as mentioned below (9).

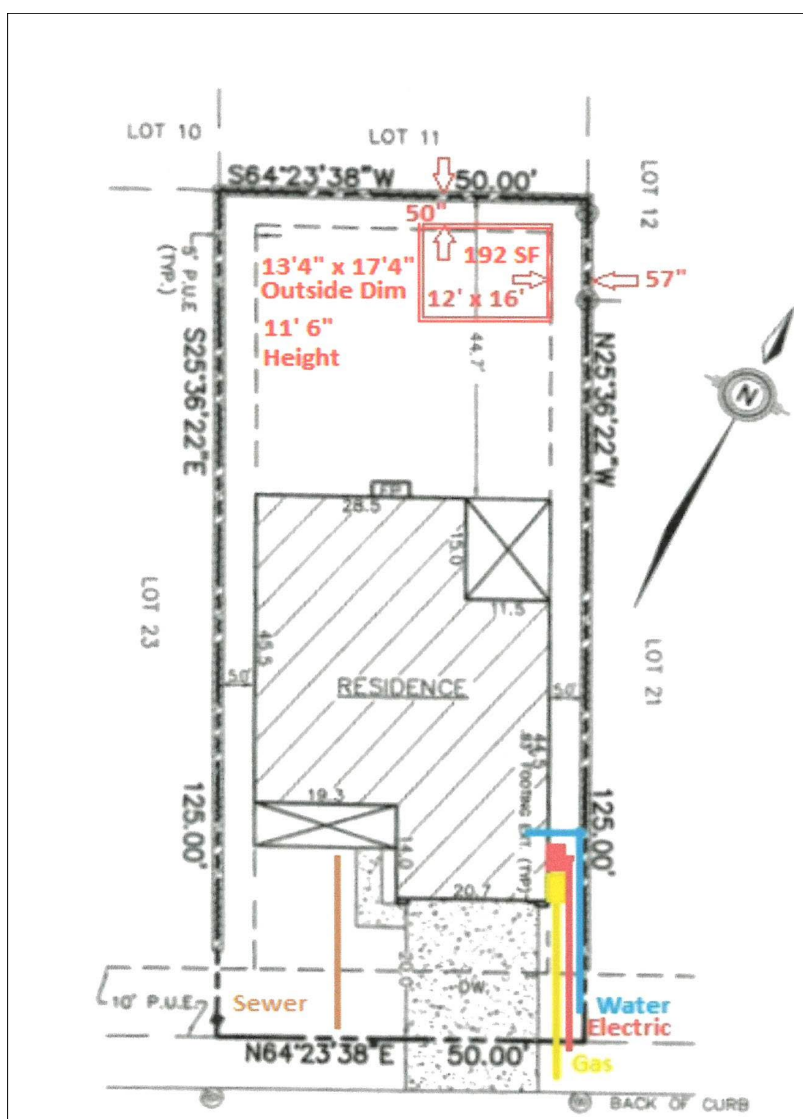
(8) Small accessory structures, not exceeding 120 square feet, shall be at least ten feet from the primary dwelling and other accessory structures on the lot.

According to the New Mexico Administrative Code, the structure is considered a small accessory. The applicant cited the structure to be located approximately 44.7' from the primary dwelling. There are no other accessory structures on the lot.

(9) In any zone district, no accessory structure shall be located within five feet of any lot line.

Although the WRTC has zero setbacks, it must maintain at least five feet (60") from any lot lines. The structure is depicted on the site to be 50" from the rear property line and 57" to the side. During a site visit, staff verified that measurements provided were taken from the centerline of the brick wall where the property line is depicted on the survey.

Approval of the VAR-2023-0000 would allow a 10" variance on the rear and 3" on the side. While the difference appears minor, the Development Code, Section 16-73(a), Administrative Deviations, restricts the Community Development Director from approving setback modifications greater than 15% of the setback. Administrative Deviation would alleviate the side, but not the rear. This variance request captures the request for both the side and rear.



INTERDEPARTMENTAL REVIEW COMMITTEE (IDRC) REVIEW

The IDRC met and reviewed this application on Thursday, August 17, 2023. At review they did not recommend any conditions and motioned for the case to move forward to the Planning and Zoning Commission for determination.

See Exhibit 2: IDRC Minutes

PUBLIC NOTICE

The public hearing was noticed to be located at 1000 Central Ave, Los Alamos, NM, with an option for the public to provide comment virtually, via Zoom. The Public Notice requirements were completed in accordance with the Los Alamos County Code of Ordinances, Chapter 16 – Development Code, Section 16-72-(c), which includes:

- *Published and Posted Notice [16-72-(c)(4)]:*
 - Notice published in a newspaper of general circulation within the County at least 14-calendar days before the meeting or hearing. **Published August 24, 2023**
 - The posting of at least one sign on a street abutting the property that is the subject of the application – visible from the street – for at least 14-calendar days before the public meeting or hearing. **Posted August 29, 2023.**
- *Mailed Notice [16-72-(c)(5)]:*
 - Mailed notice 14-days prior to the public hearing to all owners of record as identified in the records of the County Tax Assessor or occupants of properties within 300 ft., excluding public rights-of-way, of exterior lot lines of the subject property. **Mailed August 25, 2023.**

See Exhibit 3: Public Notices

VARIANCE DECISION CRITERIA

Section 16-74(g)(3) of the Los Alamos County Development Code states that an application for a variance shall be approved if it meets all of the following criteria:

a. The variance will not be contrary to the public safety, health, or welfare.

Applicant Response: The structure is being built to the highest engineering standards, far exceeding those of typical small accessory structure. Its construction is more in line with those found in areas of the country that experience hurricanes, as we do experience high winds. Block wall construction, bolted top & crown plate, rafters strapped to the block wall. It's 4x the distance to neighboring houses, as those houses are to each other. There is twice the distance surrounding it to the block wall as compared to some of the existing structures. NOTE: See attached photo #1. Emergency services will have unfettered access the area, if they ever have to aid a neighbor from this property.

Staff Response: It is the staff's expert opinion that this criterion has been met. The Fire Marshal's Office has responded that they do not have concerns with access to the backyard. The structure is made of cinderblock and sits in the rear of the property, which is also surrounded by cinderblock walls. Adjacent properties currently do not have accessory structures in proximity to this structure. There is no implication that the variance would be contrary to public, safety, health, or welfare.

b. The variance will not undermine the intent of this Code, the applicable zone district, other county adopted policies or plans, or violate the building code.

Applicant Response: The property is surrounded by a block wall that varies in height from 4 to 7 feet, with a 3 foot change in elevation from one lot to the next. The houses sit 5 feet or less feet from the block walls which makes it difficult to see the structure from the road. The ordinance was recently changed to increase the distance from 3 to 5 feet to the property lines. What was legal just a few months ago is no longer compliant. The intent was to be fully compliant to the 5 foot requirement but several mistakes by the contractor, led to corrections that were structurally sound but off location. This was not identified till after the walls were up, at significant expense. This does not undermine the intent of the code or effect other properties. A compliant structure slightly further from the wall could actually be 3 feet taller. NOTE: Several photos will be supplied to demonstrate how difficult it is to see into neighboring yards. Several up the hill have structures, all you can see is the roof when viewed at eye level.

Staff Response: It is the staff's expert opinion that this criterion has been met. The Development Code, Section 16-1, Zoning, outlines the purpose and authority to regulate the use of land. Among those listed is: "*Guide the location and use of structures and land for commercial, industrial, public, and residential uses where they are, or can be made to be, compatible with neighboring uses.*" Although the underlying zone is WRTC, the Mirador subdivision was built to single-family residential standards, where accessory structures are permitted within the rear yard. As the structure is less than 200 sq.ft. and considered a small accessory structure, the International Building Code would not be applied to the building permit, nor reviewed by the Building Division.

See Exhibit 4: Section 16-1, Zoning

- c. ***Granting of the variance will not cause an intrusion into any utility or other easement unless approved by the owner of the easement.***

Applicant Response: All utilities come from the road. Beneath the surface in this area lies solid basalt rock. The lots are separated by high block walls. No intrusion will occur.

Staff Response: It is the staff's expert opinion that this criterion has been met because the Department of Public Utilities and Public Works have reviewed this application and confirmed no easements, nor utilities would be affected by the approval of this request.

- d. ***The variance request is caused by unusual physical characteristics or a hardship inherent in the lot or lot improvements and the peculiarity or hardship has not been self-imposed.***

Applicant Response: The tragic death of my wife several months prior to starting this project probably contributed to the poor judgement in moving forward with this project. It did get me out of my depression but I probably should have questioned the applicability of the New Mexico Residential Code 105.1, which states that no permits were required for small accessory structures less than 200 SF. This wasn't about cutting corners and saving money as I spent a lot to make a structure that was aesthetically pleasing and structurally sound. It wasn't about not wanted to comply with the current 5 foot requirement, it was a simple mistake.

Staff Response: It is the staff's expert opinion that this criterion has not been met as submitted. The Planning and Zoning Commission, however, based on evidence and testimony presented during the public hearing may decide differently.

- e. ***The variance will not create any significant adverse impacts on properties within the vicinity.***

Applicant Response: As stated earlier, these properties are surrounded by block walls, view within them are very limited. The structure is designed to look exactly like the surrounding houses, only smaller. Several houses surrounding me have similar structures, some properties have up to three. Attached are photos of some that can be seen from my upper porch and ground level. From ground level all you can see are roofs.

Staff Response: It is staff's expert opinion that this criterion has been met. The IDRC discussed the application and did not identify any adverse effects for properties within the vicinity.

- f. ***Granting of the approved variance is the minimum necessary easing of the Code requirements making possible the reasonable use of the land, structure, or building.***

Applicant Response: Upon discovering the discrepancy, I have worked diligently with code enforcement and the planning office to come up with reasonable administrative solution. The changing of the code at the beginning of the year has made this difficult for the planning office to support. For that reason, I as for a variance to make use of the land. No one will be impacted by this as it is, as the properties are all separated by block walls. A bigger structure



could be put on the property without issue if it were several inches further from the wall. I feel that the request is reasonable in light that no one will be harmed and so much has already been invested.

Staff Response: It is the staff's expert opinion that this criterion has not been met. Although staff acknowledges the owner's error, the property has sufficient area for an accessory structure to comply with the use regulations. The Planning and Zoning Commission, however, based on evidence and testimony presented during the public hearing may decide differently.

DRAFT MOTION¹

Motion Option 1:

I move to **approve** Case No. VAR-2023-0000, a request variance from the Development Code, Use Regulations, for a 192 sq.ft. accessory structure to be 50" from the rear property line, and 57" from the side. The property, MIR05021, is addressed as 100 Confianza St., Los Alamos, NM, and is within the White Rock Town Center (WRTC) zone district.

Approval is based on the Findings of Facts established at the hearing and conclusion that the Applicant has met the decision criteria for Variance within Section 16-74(g)(3) of the Los Alamos County Development Code and that the Commission is acting under the authority granted by Section 16-69(b)(2)(j) of the Development Code.

I further move to authorize the Chair to sign a Final Order approving the application and Findings of Fact and Conclusions of Law for this case, based on this decision to be prepared by county staff.

Motion Option 2:

I move to **deny** Case No. VAR-2023-0000, a request for variance from the Development Code, Use Regulations, for a 192 sq.ft. accessory structure to be 50" from the rear property line, and 57" from the side. The property, MIR05021, is addressed as 100 Confianza St., Los Alamos, NM, and is within the White Rock Town Center (WRTC) zone district. Denial is based on the Applicant failing to demonstrate that the application meets the Variance decision criteria within Section 16-74(g)(3) of the Los Alamos County Development Code and that the Commission is acting under the authority granted by Section 16-69(b)(2)(j) of the Development Code.

I further move to authorize the Chair to sign a Final Order approving the application and Findings of Fact and Conclusions of Law for this case, based on this decision to be prepared by county staff.

FINDINGS OF FACT²

1. *On August 9, 2023, Robert Qualick ("Applicant"), applied to the Community Development, Planning Division for variance to locate a 192 square foot accessory structure at 100 Confianza Street, Los Alamos, New Mexico ("Property").*
2. *The Property's legal description is MIR05022 of the Mirador subdivision and is in the White Rock Town Center (WRTC) zone district. According to Code an accessory structure is a permitted use subject to the Use Specific Standards within Section 16-18(b), Accessory Structures.*

¹ *The Commission may recommend conditional approval as determined during the hearing.*

² *The Findings and Conclusion of Law provided are draft and may be expanded on and amended after the public hearing to represent the facts presented, the Commission's decision, and the basis for their action.*

3. *The variance approves a 10” deviation from the rear property line and 3” from the side property line. The Code, Section 16-18(b)(9) restricts any accessory structure from being located within five feet of any lot line.*
4. *Pursuant to Los Alamos County Development Code, 16-74-(g), any deviation from this Code [Development Code] requires a variance when it is in excess of the thresholds established in Section 16-73(a), Administrative Deviations.*
5. *Robert Qualick is the legal owner of the subject property commonly referred to as 100 Confianza Street.*
6. *The application was assigned as Case No. VAR-2023-0000.*
7. *As provided in the CDD Report and per testimony of CDD staff Desirae J. Lujan, notice of the public hearing was published in accordance with Section 16-72-(c) of the County Code, as notice was published in the Los Alamos Daily Post on August 24, 2023, notice of the proposed action and public hearing was mailed via U.S. Mail to owners of real property within three-hundred (300) feet of the property on August 25, 2023, and notice as posted on the subject property on August 29, 2023.*
8. *Based on the CDD Staff Report and per testimony of CDD Staff Lujan, the Application was presented to the Interdepartmental Review Committee (“IDRC”) on August 17, 2023.*
9. *The County Code states that any deviation in excess of the thresholds established in Section 16-73(a) Administrative Deviations will require a Variance. A Variance is identified by Code as a Quasi-Judicial decision where the Planning and Zoning Commission shall conduct a public hearing pursuant to Section 16-72-(f)(5).*
10. *An application for variance shall be approved if it meets all the criteria listed in Section 16-74-(g)(3):*
 - a. *The Variance will not be contrary to the public safety, health, or welfare.*
 - b. *The Variance will not undermine the intent of this Code [Development Code], the applicable zone district, other County adopted policies or plans, or violate the Building Code.*
 - c. *Granting of the Variance will not cause an intrusion into any utilities or other easements unless approved by the owner of the easement.*
 - d. *The Variance request is caused by unusual physical characteristics or a hardship inherent in in the lot or lot improvements and the peculiarity or hardship has not been self-imposed.*
 - e. *The Variance will not create any significant adverse impacts on properties within the vicinity.*
 - f. *Granting of the approved Variance is the minimum necessary easing of the Code requirements making possible the reasonable use of the land, structure, or building.*
11. *The public hearing was held in-person on September 13, 2023, within the Los Alamos County Municipal Building, Council Chambers, with a virtual option for public participation.*
12. *The public meeting was opened to receipt and cross-examination of testimony taken under oath or affirmation.*

CONCLUSIONS OF LAW

After full hearing and consideration, the Planning and Zoning Commission finds that the Applicant has met each applicable decision criteria contained in Section 16-74-(g)(3) of the Los Alamos County Development Code and is acting under the authority granted it by Section 16-69(b)(2)(j) of the Development Code.

EXHIBITS

- Exhibit 1: Application Packet
- Exhibit 2: IDRC Minutes
- Exhibit 3: Public Notices
- Exhibit 4: Section 16-1, Zoning



DEVELOPMENT APPLICATION

PROJECT INFORMATION

Title: Accessory Structure

Project Address: 100 Confianza St. White Rock, N.M. 87547

Description:
Small Accessory Structure, less than 200 Sqft, Residential.

Check all application types, if applicable:

- | | |
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| <ul style="list-style-type: none"> <input type="checkbox"/> Administrative Deviation ... \$25 <input type="checkbox"/> Temporary Use Permit ... \$25 <input type="checkbox"/> Comprehensive Plan Adoption & Amendment* <input type="checkbox"/> Conditional Use Permit* ... \$300 <input type="checkbox"/> County Landmark or Historic District Adoption/Amendment* ... \$250 <input type="checkbox"/> Development Plan* ... \$500 <input type="checkbox"/> Major Development Plan Amendment* ... \$500 <input type="checkbox"/> Minor Development Plan Amendment ... \$250 <input type="checkbox"/> Summary Plat... \$125 plus \$10 / acre for non-residential <input type="checkbox"/> Sketch Plat, Subdivision*... \$250 plus
\$175/lot (1-10 lots)
\$125/lot (11-30 lots)
\$75/lot (30+ lots) <input type="checkbox"/> Preliminary Plat, Subdivision* ... \$250 plus
\$175/lot (1-10 lots)
\$125/lot (11-30 lots)
\$75/lot (30+ lots) <input type="checkbox"/> Final Plat, Subdivision* ... \$250 plus
\$175/lot (1-10 lots)
\$125/lot (11-30 lots)
\$75/lot (30+ lots) <input type="checkbox"/> Landscaping Plan ...\$500 <input type="checkbox"/> Lighting Plan ...\$500 | <ul style="list-style-type: none"> <input type="checkbox"/> Site Plan* ... \$500 plus
\$75 per/Million \$ estimated construction cost
Estimated Construction Cost: _____ <input type="checkbox"/> Major Site Plan Amendment* ... \$500 <input type="checkbox"/> Minor Site Plan Amendment ... \$250 <input type="checkbox"/> Major Zone Map Amendment* ... \$150
<i>No fee if initiated by County Council or County Manager</i> <input type="checkbox"/> Minor Zone Map Amendment* ... \$150
<i>No fee if initiated by County Council or County Manager</i> <input type="checkbox"/> Master Plans* (Major, Minor) <input type="checkbox"/> Text Amendment* ... \$150
<i>No fee if initiated by County Council or County Manager</i> <input checked="" type="checkbox"/> Variance ... \$250
<i>No fee if application is a part of a Site Plan review</i> <input type="checkbox"/> Administrative Wireless Telecommunication Facility ... \$250 <input type="checkbox"/> Discretionary Wireless Telecommunication Facility* ... \$500 <input type="checkbox"/> Small Wireless Telecommunication Facility <input type="checkbox"/> Major Historic Demolition* ... \$250 <input type="checkbox"/> Major Historic Property Alteration Certification* ... \$250 <input type="checkbox"/> Minor Historic Property Alteration Certificate |
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*** Application reviews require a pre-application meeting.**

PROPERTY & OWNER INFORMATION

Property Address:	100 Confianza St. <small>Address</small>	White Rock <small>City</small>	NM <small>State</small>	87547 <small>ZIP</small>
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Zoning District: White Rock Town Center (WRTC).	Lot Size - Acres / Sq. Ft.: 6250 SF
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Existing Structure(s) Sq. Ft.: 2596	Lot Coverage: 38.00
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Property Owner(s) Name: Robert Qualick

Owner(s) Email: n21543@yahoo.com

Owner(s) Phone(s)#: (352) 397-5691

Owner's Address same as Property Address

Owner(s) Address:	<small>Address</small>	<small>City</small>	<small>State</small>	<small>ZIP</small>
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APPLICANT / OWNER'S AGENT INFORMATION

Applicant is same as Owner

Applicant Name:

Applicant Address:	<small>Address</small>	<small>City</small>	<small>State</small>	<small>ZIP</small>
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Applicant Email:


Applicant Phone(s)#:

ASSOCIATED APPLICATIONS

Application Type: BUILDING PERMIT

Case Number: BLDR-2023-06392.

I hereby certify and affirm, under penalty of perjury, that the information I have provide in this application is true and accurate to the best of my knowledge, information, and belief. [NMSA 1978, §30-25-1]

Signature: 	Date: 08/09/2023
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STAFF USE ONLY

Date Received:	Staff:
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Case No.#:	Meeting Date:
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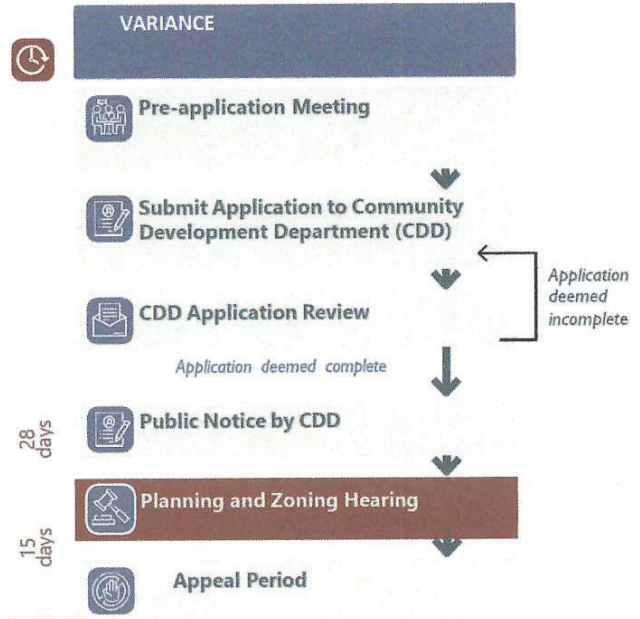
SUBMITTALS

<input checked="" type="checkbox"/> Proof of Ownership or Letter of Authorization from Owner	<input checked="" type="checkbox"/> Complete Application – Date: <u>06/29/2023</u>
<input checked="" type="checkbox"/> Items from associated Application Checklist	<input type="checkbox"/> Payment – Accepted upon verification of a complete application - Date: _____

VARIANCE CHECKLIST

Applicants for all development application reviews must complete this checklist and submit it with the Development Application. Refer to the referenced code sections for additional information. Contact the Planning Division with questions regarding these requirements: planning@lacnm.us.

PRE-APPLICATION MEETING	
Date Held:	
SITE PLAN	
Scaled site plan at a minimum of 1" = 100' that illustrates the following:	
<input checked="" type="checkbox"/>	Graphic Scale and North Arrow
<input checked="" type="checkbox"/>	Property Lines according to recorded survey
<input checked="" type="checkbox"/>	Existing and proposed structures
<input checked="" type="checkbox"/>	Existing and proposed easements
<input checked="" type="checkbox"/>	Existing and proposed setbacks
<input checked="" type="checkbox"/>	Existing and proposed utility lines
ELEVATIONS	
Elevation drawing(s) at a minimum scale of 1/8" = 1' that indicates:	
<input checked="" type="checkbox"/>	Height (above existing grade) of all four sides
LOT COVERAGE	
Existing (%)	38.00
Proposed (%)	45.00
ADDITIONAL SUBMITTALS	
Based on staff's review and Interdepartmental Review Committee's recommendation – additional submittals may be required and will be communicated to the applicant by the assigned Case Manager.	



See Reverse.

DECISION CRITERIA 16-74-(g)(3)

a. The variance will not be contrary to the public safety, health, or welfare. Explain.

The variance will not be contrary to the public safety, health, or welfare. Explain.

The structure is being built to the highest engineering standards, far exceeding those of a typical small accessory structure. Its construction is more in line with those found in areas of the country that experience hurricanes, as we do experience high winds. Block wall construction, bolted top & crown plate, rafters strapped to the block wall It's 4x the distance to neighboring houses, as those houses are to each other. There is twice the distance surrounding it to the block wall as compared to some of the existing structures. NOTE: See the attached photo #1. Emergency services will have unfettered access the area, if they ever have to aid a neighbor from this property.

Staff finds that this criterion has been met

Staff finds that this criterion has not been met – more information is needed

b. The variance request will not undermine the intent of the Development Code, the applicable zone district, other County adopted policies or plans, or violate the Building Code. Explain.

The property is surrounded by a block wall that varies in height from 4 to 7 feet, with a 3 foot change in elevation from one lot to the next. The houses sit 5 feet or less feet from the block walls which makes it difficult to see the the structure from the road. The ordinance was recently changed to increase the distance from 3 to 5 feet to the property lines. What was legal just a few months ago is no longer compliant. The intent was to be fully compliant to the 5 foot requirement but several mistakes by the contractor, led to corrections that were structurally sound but off location. This was not identified till after the walls were up, at significant expense. This does not undermin the intent of the code or effect other properties. A compliant structure slightly further from the wall could actually be 3 feet taller. NOTE: Several photos will be supplied to demonstrated how difficult it is to see into neighboring yards. Several up the hill have structures, all you can see is the roof when viewed at eye level.

Staff finds that this criterion has been met

Staff finds that this criterion has not been met – more information is needed

c. Granting of the variance will not cause an intrusion into any utility or other easements unless approved by the owner of the easement. Explain.

All utilities come from the road. Beneath the surface in this area lies solid basalt rock. The lots are separated by high block walls. No intrusion will occur.

Staff finds that this criterion has been met

Staff finds that this criterion has not been met – more information is needed

DECISION CRITERIA 16-74-(g)(3)

- d. The variance request is caused by an unusual physical characteristic or hardship inherent in the lot or lot improvements and that the peculiarity or hardship is not self-imposed. Explain.

The tragic death of my wife several months prior to starting this project probably contributed to the poor judgment in moving forward with this project. It did get me out of my depression but I probably should have questioned the applicability of the New Mexico Residential Code 105.1, which states that no permits were required for small accessory structures of less than 200 SF. This wasn't about cutting corners and saving money as I spent a lot to make a structure that was aesthetically pleasing and structurally sound. It wasn't about not wanting to comply with the current 5 foot requirement, it was a simple mistake.

- Staff finds that this criterion has been met
 Staff finds that this criterion has not been met – more information is needed

- e. The variance will not create any significant adverse impacts on properties within the vicinity. Explain.

As I stated earlier, these properties are surrounded by block walls, view within them are very limited. The structure is designed to look exactly like the surrounding houses, only smaller. Several houses surrounding me have similar structures, some properties have up to three. Attached are photos of some that can be seen from my upper porch and ground level. From ground level all you can see are roofs.

- Staff finds that this criterion has been met
 Staff finds that this criterion has not been met – more information is needed

- f. Granting of the approved variance is the minimum necessary easing of the Code requirements making possible the reasonable use of the land, structure, or building. Explain.

Upon discovering the discrepancy, I have worked diligently with code enforcement and the planning office to come up with and reasonable administrative solution. The changing of the code at the beginning of the year has made this difficult for the planning office to support. For that reason, I ask for a variance to make use of the land. No one will be impacted by this as it is, as the properties are all separated by block walls. A bigger structure could be put on the property without issue if it were several inches further from the wall. I feel that the request is reasonable in light that no one will be harmed and so much has already been invested.

- Staff finds that this criterion has been met
 Staff finds that this criterion has not been met – more information is needed

Attach additional sheets, if needed.

A) The variance will not be contrary to the public safety, health, or welfare. Explain.

The structure is being built to the highest engineering standards, far exceeding those of a typical small accessory structure. Its construction is more in line with those found in areas of the country that experience hurricanes, as we do experience high winds. Block wall construction, bolted top & crown plate, rafters strapped to the block walls. It's 4x the distance to neighboring houses, as those houses are to each other. There is twice the distance surrounding it to the block wall as compared to some of the existing structures. NOTE: See the attached photo #1. Emergency services will have unfettered access the area, if they ever have to aid a neighbor from this property.



ATTACHMENT A

EXHIBIT 1

- B) The variance request will not undermine the intent of the Development Code, the applicable zone district, other County adopted policies or plans, or violate the Building Code. Explain.

The property is surrounded by a block wall that varies in height from 4 to 7 feet, with a 3 foot change in elevation from one lot to the next. The houses sit 5 feet or less feet from the block walls which makes it difficult to see the structure from the road. The ordinance was recently changed to increase the distance from 3 to 5 feet to the property lines. What was legal just a few months ago is no longer compliant. The intent was to be fully compliant to the 5 foot requirement but several mistakes by the contractor, led to corrections that were structurally sound but off location. This was not identified till after the walls were up, at significant expense. This does not undermine the intent of the code or effect other properties. A compliant structure slightly further from the wall could actually be 3 feet taller. NOTE: Several photos will be supplied to demonstrated how difficult it is to see into neighboring yards. Several up the hill have structures, all you can see is the roof when viewed from eye level.

- C) Granting of the variance will not cause an intrusion into any utility or other easements unless approved by the owner of the easement. Explain.

All utilities come from the road. Beneath the surface in this area lies solid basalt rock. The lots are separated by high block walls. No intrusion will occur.

- D) The variance request is caused by an unusual physical characteristic or hardship inherent in the lot or lot improvements and that the peculiarity or hardship is not self-imposed. Explain.

The tragic death of my wife several months prior to starting this project probably contributed to the poor judgment in moving forward with this project. It did get me out of my depression but I probably should have questioned the applicability of the New Mexico Residential Code 105.1, which states that no permits were required for small accessory structures of less than 200 SF. This wasn't about cutting corners and saving money as I spent a lot to make a structure that was Aesthetically pleasing and structurally sound. It wasn't about not wanting to comply with the current 5 foot requirement, it was a simple mistake.

- E) The variance will not create any significant adverse impacts on properties within the vicinity. Explain. As I stated earlier, these properties are surrounded by block walls, view within them are very limited. The structure is designed to look exactly like the surrounding houses, only smaller. Several houses surrounding me have similar structures, some properties have up to three. Attached are photos of some that can be seen from my upper porch and ground level. From ground level all you can see are roofs.

- F) Granting of the approved variance is the minimum necessary easing of the Code requirements making possible the reasonable use of the land, structure, or building. Explain.

Upon discovering the discrepancy, I have worked diligently with code enforcement and the planning office to come up with and reasonable administrative solution. The changing of the code at the beginning of the year has made this difficult for the planning office to support. For that reason, I ask for a variance to make use of the land. No one will be impacted by this as it is, as the properties are all separated by block walls. A bigger structure could be put on the property without issue if it were several inches further from the wall. I feel that the request is reasonable in light that no one will be harmed and so much has already been invested.

ATTACHMENT A

EXHIBIT 1

 <p><i>First American Title</i>[™]</p>  <p>Title Guaranty, LLC</p>	<p>ALTA Commitment for Title Insurance</p> <hr/> <p>ISSUED BY</p> <p>FIRST AMERICAN TITLE INSURANCE COMPANY</p>
<p>Commitment</p>	

COMMITMENT FOR TITLE INSURANCE

Issued by

FIRST AMERICAN TITLE INSURANCE COMPANY

NOTICE

IMPORTANT-READ CAREFULLY: THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACONTRACTUAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I-Requirements; Schedule B, Part II-Exceptions; and the Commitment Conditions, FIRST AMERICAN TITLE INSURANCE COMPANY, a Nebraska corporation, (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Policy Amount and the name of the Proposed Insured.

If all of the Schedule B, Part I-Requirements have not been met within six (6) months after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

COMMITMENT CONDITIONS**1. DEFINITIONS**

- (a) "Knowledge" or "Known": Actual or imputed knowledge, but not constructive notice imparted by the Public Records.
- (b) "Land": The land described in Schedule A and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
- (c) "Mortgage": A mortgage, deed of trust, or other security instrument, including one evidenced by electronic means authorized by law.
- (d) "Policy": Each contract of title insurance, in a form adopted by the American Land Title Association, issued or to be issued by the Company pursuant to this Commitment.
- (e) "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.
- (f) "Proposed Policy Amount": Each dollar amount specified in Schedule A as the Proposed Policy Amount of each Policy to be issued pursuant to this Commitment.
- (g) "Public Records": Records established under state statutes at the Commitment Date for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge.
- (h) "Title": The estate or interest described in Schedule A.

2. If all of the Schedule B, Part I-Requirements have not been met within the time period specified in the Commitment to Issue Policy, this Commitment terminates and the Company's liability and obligation end.

3. The Company's liability and obligation is limited by and this Commitment is not valid without:

- (a) the Notice;
- (b) the Commitment to Issue Policy;
- (c) the Commitment Conditions;
- (d) Schedule A;
- (e) Schedule B, Part-Requirements;
- (f) Schedule B, Part II-Exceptions;
- (g) a counter-signature by the Company or its issuing agent that may be in electronic form].

4. COMPANY'S RIGHT TO AMEND

The Company may amend this Commitment at any time. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company shall not be liable for any other amendment to this Commitment.

5. LIMITATIONS OF LIABILITY

- (a) The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual expense incurred in the interval between the Company's delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's good faith reliance to:
 - (i) comply with the Schedule B, Part I-Requirements;
 - (ii) eliminate, with the Company's written consent, any Schedule B, Part II-Exceptions; or
 - (iii) acquire the Title or create the Mortgage covered by this Commitment.
- (b) The Company shall not be liable under Commitment Condition 5(a) if the Proposed Insured requested the amendment or had Knowledge of the matter and did not notify the Company about it in writing.
- (c) The Company will only have liability under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.
- (d) The Company's liability shall not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Conditions 5(a)(i) through 5(a)(iii) or the Proposed Policy Amount.
- (e) The Company shall not be liable for the content of the Transaction Identification Data, if any.
- (f) In no event shall the Company be obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I-Requirements have been met to the satisfaction of the Company.
- (g) In any event, the Company's liability is limited by the terms and provisions of the Policy.

6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT

- (a) Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
- (b) Any claim must be based in contract and must be restricted solely to the terms and provisions of this Commitment.
- (c) Until the Policy is issued, this Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
- (d) The deletion or modification of any Schedule B, Part II-Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
- (e) Any amendment or endorsement to this Commitment must be in writing .
- (f) When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

7. IF THIS COMMITMENT HAS BEEN ISSUED BY AN ISSUING AGENT

The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent for the purpose of providing closing or settlement services.

8. PRO-FORMA POLICY

The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

First American Title Insurance Company



Dennis J. Gilmore, President



Jeffrey S. Robinson, Secretary

If this jacket was created electronically, it constitutes an original document.

 First American Title™	ALTA Commitment for Title Insurance
	ISSUED BY FIRST AMERICAN TITLE INSURANCE COMPANY
 Title Guaranty, LLC	
<h2>Schedule A</h2>	

Pursuant to the New Mexico title insurance law Section 59A-30-4 NMSA 1978, control and supervision by superintendent and title insurance regulation 13.14.18.10 NMAC, no part of any title insurance commitment, policy or endorsement form promulgated by the New Mexico superintendent of insurance may be added to, altered, inserted in or typed upon, deleted or otherwise changed from the title insurance form promulgated by the New Mexico superintendent of insurance, nor issued by a person or company not licensed with regard to the business of title insurance by the New Mexico superintendent of insurance, nor issued by a person or company who does not own, operate or control an approved title abstract plant as defined by New Mexico law and regulations for the county wherein the property is located.

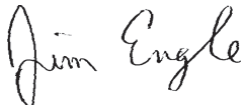
Transaction Identification Data for reference only:
 Issuing Agent: Title Guaranty, LLC
 Issuing Office: 1631 Central Avenue, Los Alamos, NM 87544
 Issuing Office's ALTA® Registry ID: 1031610

Loan ID Number:
 Issuing Office File/Commitment Number: LA21-0581
 Property Address: 100 Confianza Street, White Rock, NM 87547
 Revision Number: _____

SCHEDULE A

1. Commitment Date: **July 12, 2021, 8:00 am**
2. Policy or Policies to be issued:
 - (a) 2006 ALTA® Owner's Policy
 Proposed Insured: **Robert Qualick**
 Proposed Policy Amount: **\$625,000.00**
 - (b) 2006 ALTA® Loan Policy
 Proposed Insured: **Proposed Lender**
 Proposed Policy Amount: _____
3. The estate or interest in the land described or referred to in this Commitment is **FEE SIMPLE**.
4. Title is, at the Commitment Date vested in **Alesia Bauer Benson and Jonathan Dale Benson, wife and husband**
5. The land is described as follows:
Lot 22, Block 5 of Mirador Subdivision, as shown on plat filed in the office of the County Clerk of Los Alamos County, New Mexico, on April 24, 2019, in Book 185, Page 63, as Document No. 239178.

Countersigned
Title Guaranty, LLC

By 
AUTHORIZED SIGNATORY

	<i>First American Title™</i>	ALTA Commitment for Title Insurance
	Title Guaranty, LLC	ISSUED BY FIRST AMERICAN TITLE INSURANCE COMPANY
Schedule BI		

SCHEDULE B, Part I

Requirements

All of the following Requirements must be met:

1. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.
2. Pay the agreed amount for the estate or interest to be insured.
3. Pay the premiums, fees, and charges for the Policy to the Company.
4. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.
5. **Payment of any and all unpaid property taxes.**
6. **Payment of any outstanding assessments for utility services rendered by Los Alamos County for sewer and refuse disposal, electric, gas, water, and sewer utility services, plus any penalties and interest that may accrue.**
7. **Payment of homeowners association dues, if any.**
8. **Record Release of Mortgage dated March 23, 2020 from Alesia Bauer Benson and Jonathan Dale Benson, wife and husband to Wells Fargo Bank, N.A., recorded on March 23, 2020, in Book 188, Page 475, records of Los Alamos County, New Mexico.**
9. **Record properly executed Warranty Deed from Alesia Bauer Benson and Jonathan Dale Benson, wife and husband, to Robert Qualick, showing marital status.**
10. **Record Mortgage from Robert Qualick, showing marital status, to Lender securing loan and disburse proceeds.**
11. **Provide current Improvement Location Report if standard exception (3) survey protection is to be deleted from the policy. Note: additional requirements and/or exceptions may be made upon review of said report.**
12. **Satisfactory proof that any improvements made upon the subject premises within the past 120 day have been paid in full.**

	First American Title™	ALTA Commitment for Title Insurance
	Title Guaranty, LLC	
Schedule BII		

SCHEDULE B, Part II

Exceptions

Standard exceptions 1, 2, 3, and or 4, may be deleted from any policy upon compliance with all provisions of the applicable rules, upon payment of all additional premiums required by the applicable rules, upon receipt of the required documents and upon compliance with the company's underwriting standards for each such deletion. Standard exception 5 may be deleted from the policy if the named insured in the case of an owner's policy, or the vestee, in the case of a leasehold or loan policy, is a corporation, a partnership, or other artificial entity, or a person holding title as trustee. Except for the issuance of a U.S. policy form (NM form 34), any policy to be issued pursuant to this commitment will be endorsed or modified in schedule B by the company to waive its right to demand arbitration pursuant to the conditions and stipulations of the policy at no cost or charge to the insured. The endorsement or the language added to schedule B of the policy shall read: "In compliance with Subsection D of 13.14.18.10 NMAC, the company hereby waives its right to demand arbitration pursuant to the title insurance arbitration rules of the American Land Title Association. Nothing herein prohibits the arbitration of all arbitrable matters when agreed to by both the company and the insured."

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION CONTAINED IN ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, CONDITION, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

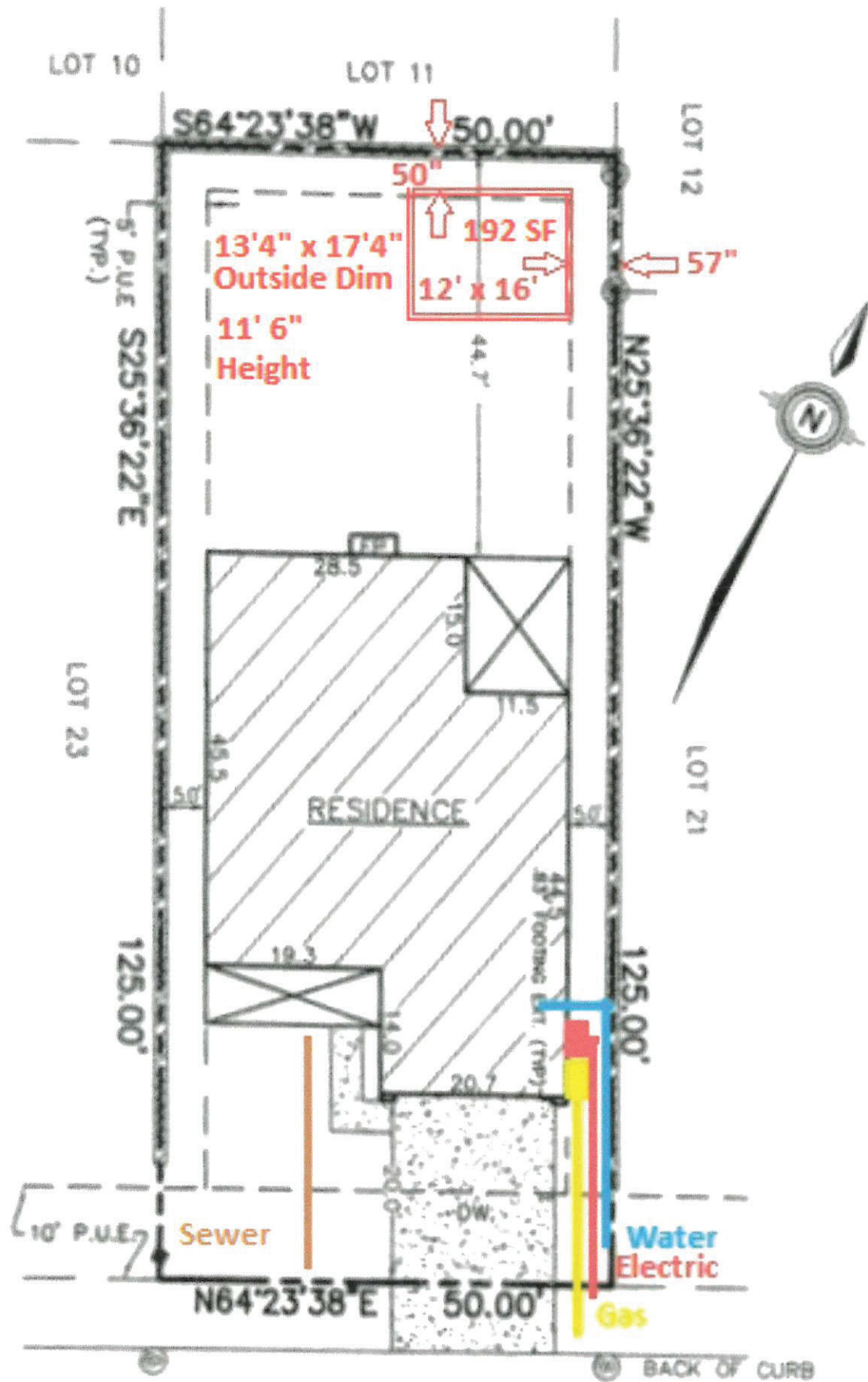
The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Rights or claims of parties in possession not shown by the public records.
2. Easements, or claims of easements, not shown by the public records.
3. Encroachments, overlaps, conflicts in boundary lines, shortages in area, or other matter which would be disclosed by an accurate survey and inspection of the premises.
4. Any lien, claim or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
5. Community property, survivorship, or homestead rights, if any, of any spouse of the insured (or vestee in a leasehold or loan policy).
6. Water rights, claims or title to water.
7. Taxes for the year **2021**, and thereafter. (See 13.14.5.12 NMAC)
8. Defects, liens, encumbrances, adverse claims or other matters, if any, created first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this commitment.

Exceptions numbered N/A will not appear in the loan policy but will appear in the owner's policy, if any.

The construction loan policy or a loan policy containing a two-year (2) claims made limitation will contain an exception limiting its coverage to two (2) years duration pursuant to 13.14.7.18 NMAC.

9. Sewer and refuse assessments not yet due and payable.
10. Quitclaim Deed from the United States of America, acting by and through The United States Department of Energy to the Incorporated County of Los Alamos, New Mexico, recorded in Book 107, Page 780, records of Los Alamos County, New Mexico.
11. Vacation of Utility Easements by the Incorporated County of Los Alamos, recorded in Book 130, Page 89, records of Los Alamos County, New Mexico.
12. Terms and conditions of Development Agreement, recorded in Book 177, Page 359, records of Los Alamos County, New Mexico.
13. Terms and conditions of Development Agreement, recorded in Book 177, Page 453, Amendment to Development Agreement, recorded in Book 177, Page 116, records of Los Alamos County, New Mexico.
14. Terms and conditions of Notice of Formation Resolution for the Mirador Public Improvement District, recorded in Book 185, Page 828; Mirador Public Improvement District Notice of Information recorded in Book 187, Page 244; Book 189, Page 228; Book 191, Page 686 and Book 194, Page 196, records of Los Alamos County, New Mexico.
15. Terms and conditions of Mirador Public Improvement District Notice of Imposition of Special Levy, recorded in Book 194, Page 192, records of Los Alamos County, New Mexico.
16. Terms and conditions of Declaration of Covenants, Conditions, and Restrictions for Mirador, recorded in Book 185, Page 838, and Amendment to Declaration of Covenants, Conditions, and Restrictions for Mirador, recorded in Book 188, Page 936, records of Los Alamos County, New Mexico.
17. Notice of Mirador Homeowners Association, Inc., recorded in Book 185, Page 839, and in Book 188, Page 850, records of Los Alamos County, New Mexico.
18. Infrastructure Development and Acquisition Agreement by and among County of Los Alamos, New Mexico, Mirador Public Improvement District and Site A-19-A-1 Acquisition Group, LLC, recorded in Book 194, Page 417, records of Los Alamos County, New Mexico.
19. Notes, conditions, easements, and rights incident thereto, as referenced on plat recorded in Book 129, Page 632; Book 164, Page 175; Book 177, Page 795, records of Los Alamos County, New Mexico.
20. Notes, conditions, easements, and rights incident thereto, as referenced on the Final Plat for Mirador Subdivision, recorded in Book 185, Page 63, records of Los Alamos County, New Mexico.
21. Encroachment of driveway onto easement, as referenced on Improvement Location Report by C.A. Spirock, dated December 9, 2019, as Project No. N313-02.



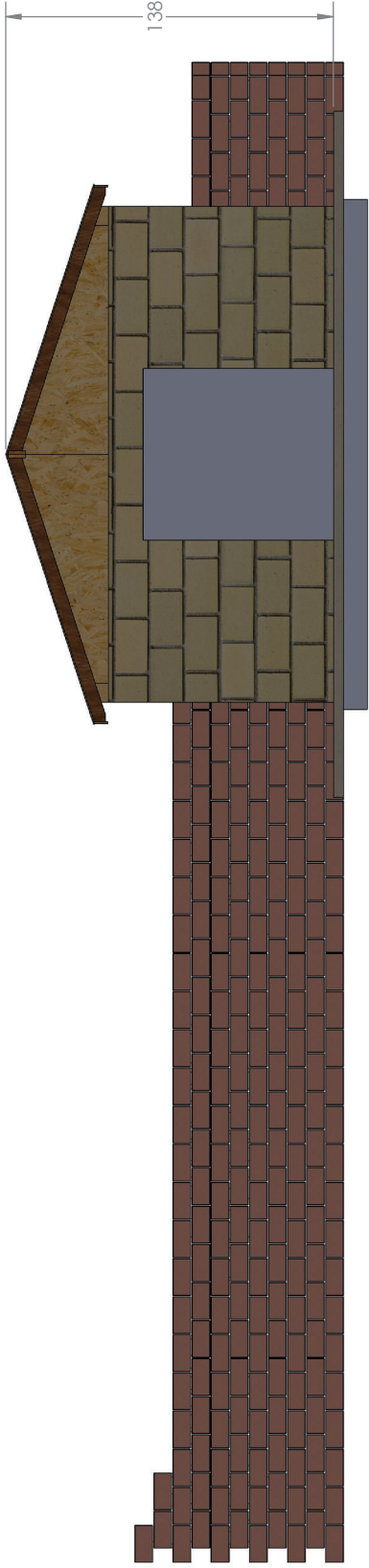
100 CONFIANZA STREET

(50' R/W) ATTACHMENT A
EXHIBIT 1

4 3 2 1

B

A



ATTACHMENT A
EXHIBIT 1

PROPRIETARY AND CONFIDENTIAL
THE INFORMATION CONTAINED IN THIS DRAWING IS THE SOLE PROPERTY OF [REDACTED] AND IS NOT TO BE REPRODUCED IN PART OR AS A WHOLE WITHOUT THE WRITTEN PERMISSION OF [REDACTED].
<INSERT COMPANY NAME HERE> IS PROHIBITED.

UNLESS OTHERWISE SPECIFIED:		DRAWN	NAME	DATE
DIMENSIONS ARE IN INCHES		CHECKED		
TOLERANCES:				
FRACTIONAL ±				
ANGULAR: MACH ± BEND ±				
TWO PLACE DECIMAL ±				
THREE PLACE DECIMAL ±				
MFG APPR.				
Q.A.				
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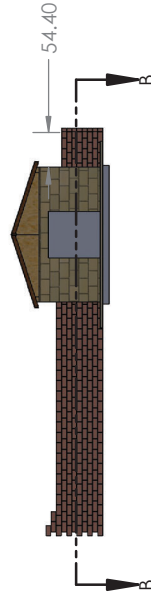
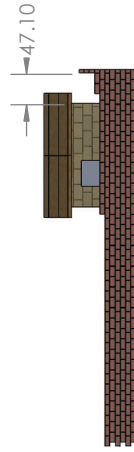
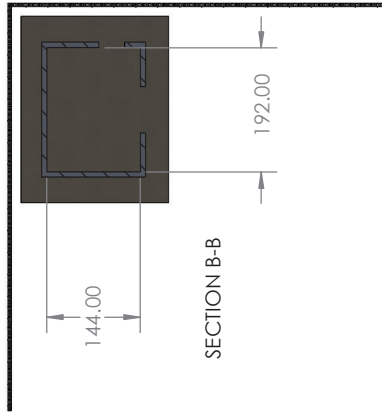
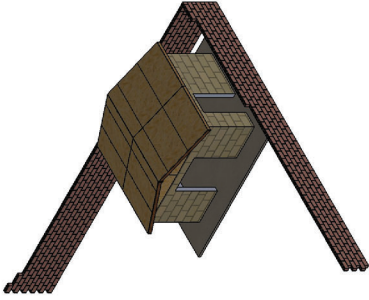
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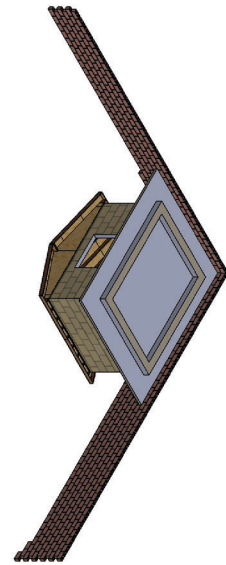
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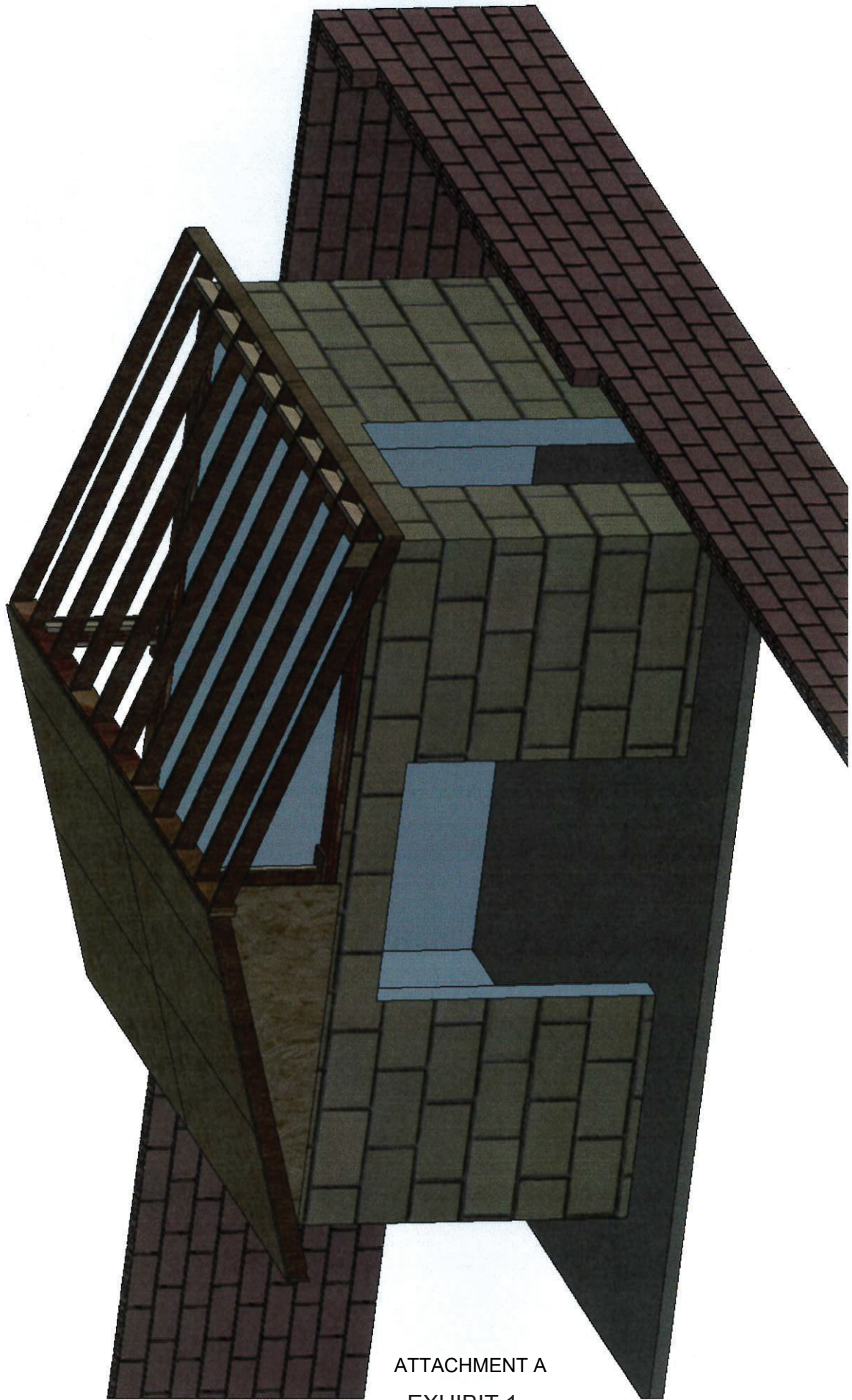
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ATTACHMENT A
EXHIBIT 1



ATTACHMENT A
EXHIBIT 1



ATTACHMENT A
EXHIBIT 1



ATTACHMENT A

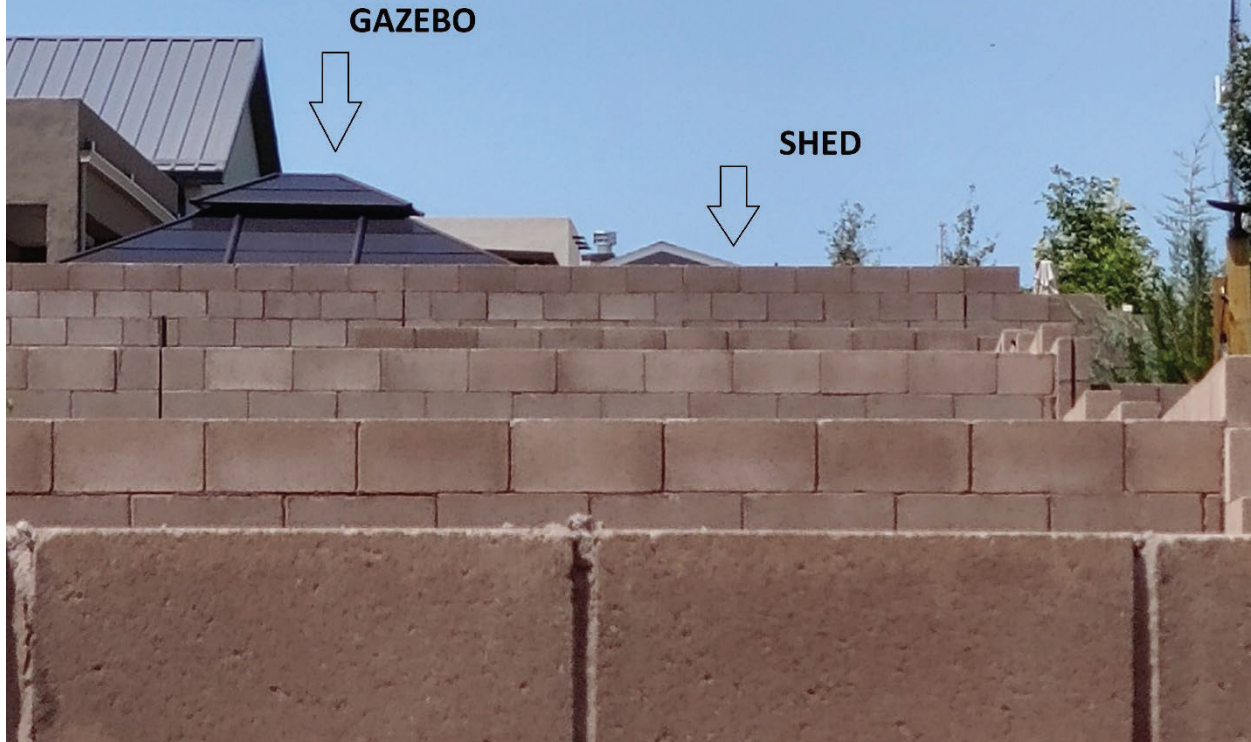
EXHIBIT 1



ATTACHMENT A

EXHIBIT 1

LOOKING SOUTH WEST AT EYE LEVEL ZOOMED IN



ATTACHMENT A

EXHIBIT 1

LOOKING NORTHEAST



ATTACHMENT A

EXHIBIT 1



SOUTHWEST VIEW MIRADOR

ATTACHMENT A

EXHIBIT 1



ATTACHMENT A

EXHIBIT 1

ROOF LINE MATCHES SURROUNDING BUILDINGS



ATTACHMENT A

EXHIBIT 1



ATTACHMENT A

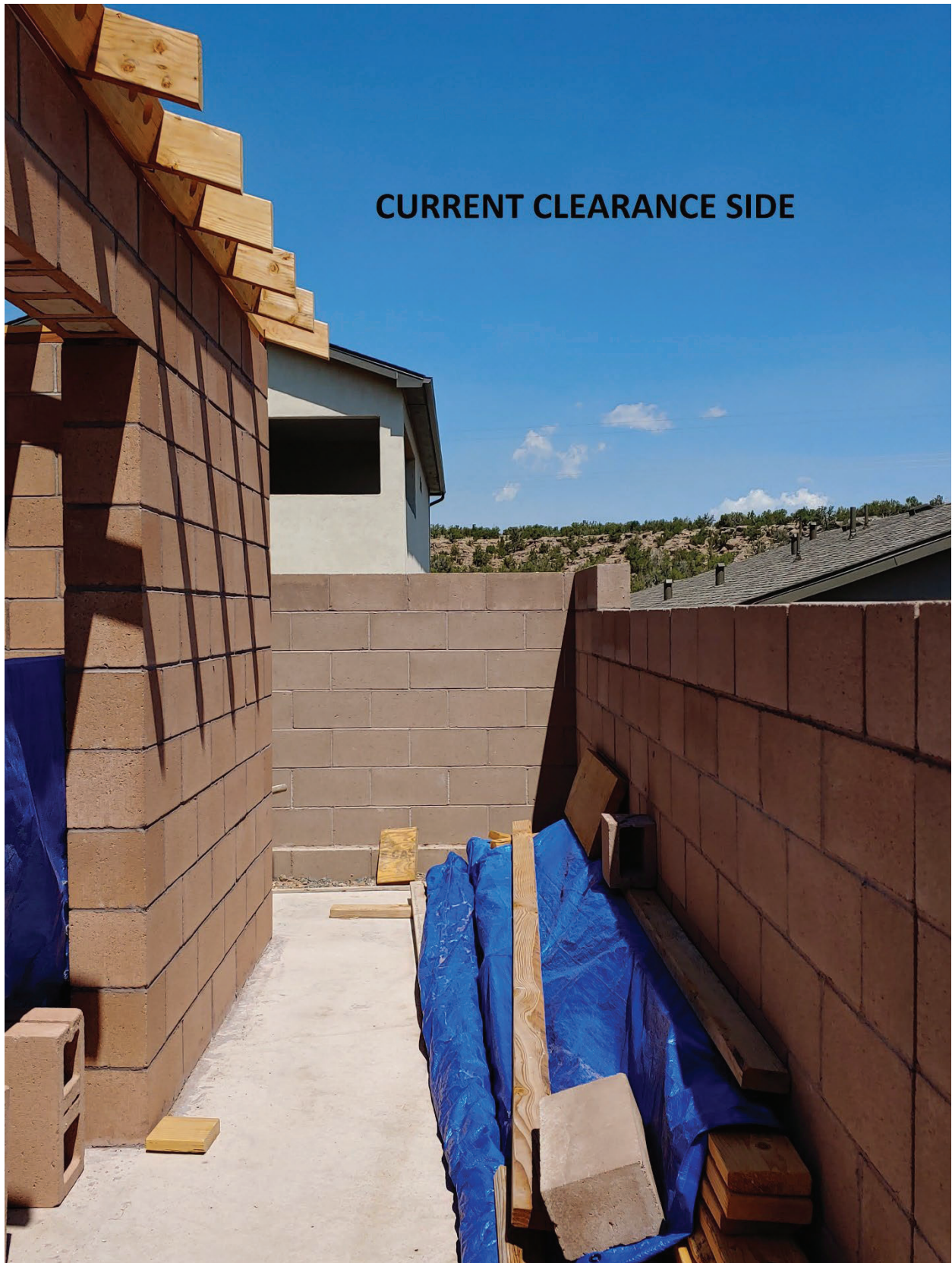
EXHIBIT 1



CURRENT CLEARANCE

ATTACHMENT A

EXHIBIT 1



CURRENT CLEARANCE SIDE

ATTACHMENT A

EXHIBIT 1



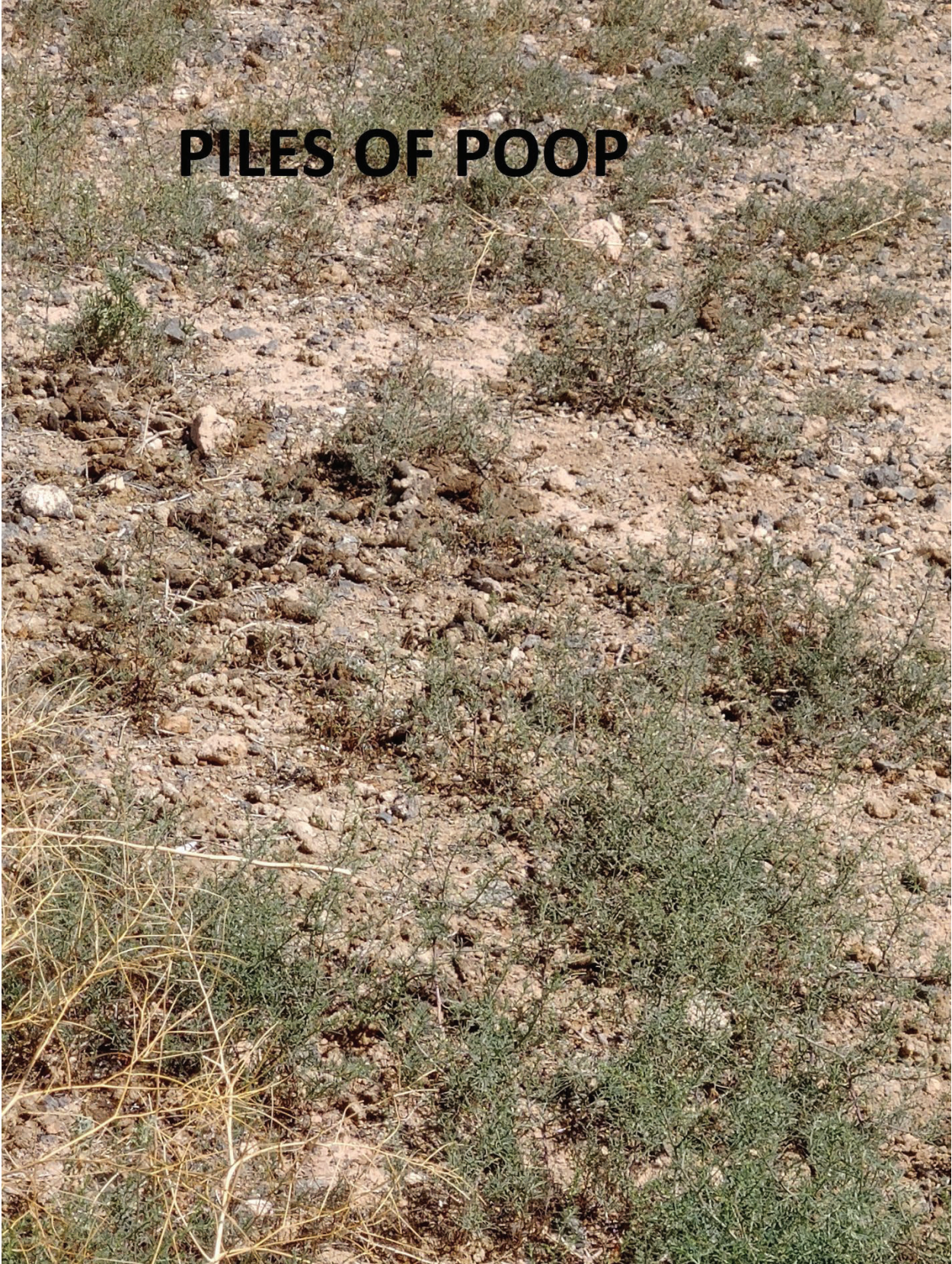
ATTACHMENT A

EXHIBIT 1



ATTACHMENT A

EXHIBIT 1



ATTACHMENT A

EXHIBIT 1

INTERDEPARTMENTAL REVIEW COMMITTEE

Meeting Minutes
Thursday, August 17, 2023
10 AM

Attending:

Sobia Sayeda, Planning Manager
Jane Mathews, Senior Planner
James Martinez, DPU Project Manager
Eric Ulibarri, County Engineer
Armando Gabaldon, Environmental Services Manager
Michael Marquez, Residential Plans Examiner
Stephen Mares, Electrical Engineering Manager
Corey Styron, Community Services Director
Desirae J. Lujan, Associate Planner
Larissa Breen, Assistant County Attorney (virtual attendance)
Thomas Wyman, Associate County Attorney (virtual attendance)
Kristi Beguin, N3B (virtual attendance)
Shannon Smith, N3B (virtual attendance)

- CASE NO. SIT-2023-0064. Dekker/Perich/Sabatini, applicant, on behalf of Transcor Development Inc., property owner, is requesting Site Plan approval for a mixed-use development named Cañada Bonita. The development proposes 160 residential apartment units and incorporates 7,192 sq. ft. of commercial space. The properties, EA3 Q1 and EA3 Q2, are respectively addressed as 2100 and 2202 Canyon Road, Los Alamos, NM, and are within the Mixed-Use (MU) zone district.***

The proposed project known as Cañada Bonita was introduced. IDRC was reminded that they have reviewed the case previously, since then a Traffic Impact Analysis (TIA) and other missing elements have been submitted. An overview of the site plan was given and the criteria for a Site Plan was outlined for discussion.

The Committee agreed that the applicant meets Criterion A, as summarized within their application. A summary of the application and submittals (dimensional standards, open space, parking standards, landscaping, and lighting) was provided, which staff finds meets Criterion D: “conformance with all applicable provisions of this code [Development Code] and other adopted County regulations”.

Infrastructure proposed for the development was discussed. James Martinez mentioned some discrepancies but concluded that the request is something that can be addressed prior to a building permit application. Stephen Mares added that he would strongly suggest that they have a transformer for each building since they are proposing all electric facilities. He communicated that he could work with the developer on the electrical design and does not see his needs as a reason to not allow the case to move forward to public hearing; they can be addressed prior to building permit.

Stormwater drainage into the canyon on the north, and its effects on the trail was discussed. Eric Ulibarri stated that their ripraps are going outside of their properties, so they are going to need encroachment permits to build within the county right-of-way. He shared that although their overall drainage off-site seems

ATTACHMENT A

EXHIBIT 2

to be lower than historic flows, they are now concentrating the flow off into one spot. It is not going to create a deep channel, but the flow will eventually find a path. He stated that worst case scenario – they will need to install some structures for mitigation. He suggested that some understanding of responsibilities be built into an encroachment permit, or within the plat, that would outline requirements if the drainage from this development begins to erode roads or trails. He concluded that at this time, it is difficult to determine where that structure would be needed, and it will take a few years to see where that will be. Shannon Smith commented that they have similar concerns about potential erosion on the canyon slope in the future.

The Committee recommended that staff get clarification on a note on the Grading and Drainage Plan which states: “10–15-foot construction grading buffer within canyon limits”. Mr. Ulibarri stated that they would need a temporary construction permit. Discussion concluded that the site plan is providing many community amenities and open space which the residents can utilize as a park within the development; therefore, meeting Criterion G.

Eric Ulibarri moved to recommend CASE NO SIT-2023-0064, with the following conditions:

- 1. Encroachment Permit and a Temporary Construction Easement, prior to building permit submittal, shall address future maintenance issues that may be caused by the drainage point located on the north side of the property boundary for a period of five-years; and,**
- 2. Final Site Plan, at Building Permit submittal, shall include all utility and drainage easements.**

Motioned seconded by Cory Styron. Motion passed 5-0 vote.

- 3. CASE NO. SIT-2022-0059. Anne Kain, applicant, on behalf of Century Bank, is requesting Site Plan approval for a mixed-use development that would incorporate a bank branch, off-street parking, and adjacent housing to provide 120 multi-family units. The property, LAI 01, is addressed as 2201 Trinity Drive, Los Alamos, NM, and is within the Downtown Los Alamos (DTLA) zone district.**

The development application was presented to the Committee. The Site Plan criteria was outlined and applied to the submittal for discussion. Upon discussion, Eric Ulibarri stated the need for a grading and drainage report. It was noted that Phase II of the development does not illustrate a crosswalk the parking area. James Martinez commented that the plans exclude gas and electric, so a utility plan will be needed. He stated that it could be a note for condition. Stephen Mares suggested that the developer coordinate with the Department of Public Utilities for an electrical plan.

The Committee discussed continuation of the Canyon Rim trail on the property, which is proposed at 10'. Cory Styron stated that the easement needs to be greater, 20'. Sobia Sayeda stated that it can be mentioned to the Planning and Zoning Commission, and they have discretion to make it a condition. Mr. Styron questioned the code requirements for open space. He asked if it only applied to residential uses. Ms. Sayeda said that there is no requirement in the criteria. Ms. Mathews presented the last criterion concerning tot lots and neighborhood parks, it was determined that the landscaped area is intended to fulfill this criterion and the plans should note verbiage to that effect.

Eric Ulibarri moved to hold the application from moving forward until the submission of Grading and Drainage Report and Utility Plan are submitted for review.

Cory Styron seconded the motion. Motion carried 4-1, with Sobia Sayed voting in opposition.

- 4. CASE NO. VAR-2023-0000. Robert Qualick, Property Owner/Applicant, is requesting a variance from Development Code, Use Regulations, to construct a 192-sf. accessory structure less than 5-feet from property lines at 100 Confianza St., White Rock, NM. The property, MIR05022, is within the Mirador Subdivision and zoned White Rock Town Center (WRTC) zone district.**

The application request and history were communicated. The Commission was advised that the building permit denied based on its failure to comply with the Section 16-18(b) which states that no accessory structure shall be located closer than 5' to any lot line in any district. Staff reviewed the Development Code and found that as an Administrative Deviation could not be applied to the rear – it was determined that the best path forward was for a Variance request before the Planning and Zoning Commission.

The criteria for a Variance were outlined, and the applicant's responses was summarized for each. The Department of Public Utilities stated that the property did not have easements and all utilities were located on the street, so it would not cause an intrusion into any utility. Michael Marquez stated that the Building Code is applied to structures 200 sf. or more, so he has not received nor reviewed construction documents to verify if the structure violates the Code. The IDRC questioned the hardship inherent of the lot and stated that the applicant would need to demonstrate it to the Commission.

James Martinez moved that Case No. SIT-2023-0000 proceed to public hearing scheduled before the Planning and Zoning Commission for September 13, 2023. Motion seconded by Michael Marquez, alternate for David Martinez, Building Official.

Vote was unanimous.

James Pepe, Fire Marshal, notified staff that his office was unable to attend the scheduled IDRC Meeting, but provided the following comments for each case:

SIT-2023-0064. Cañada Bonita. Fire department access roads need to be 20-feet wide. I see that there are 2 entrance exits for traffic which is good for LAFD access. I have spoken with utilities and the hydrants as well as the Fire Department connections (FDC) have been planned and look good. I see there will be 3-4 story buildings. 4 story buildings will require temporary standpipes in the stairwells during construction.

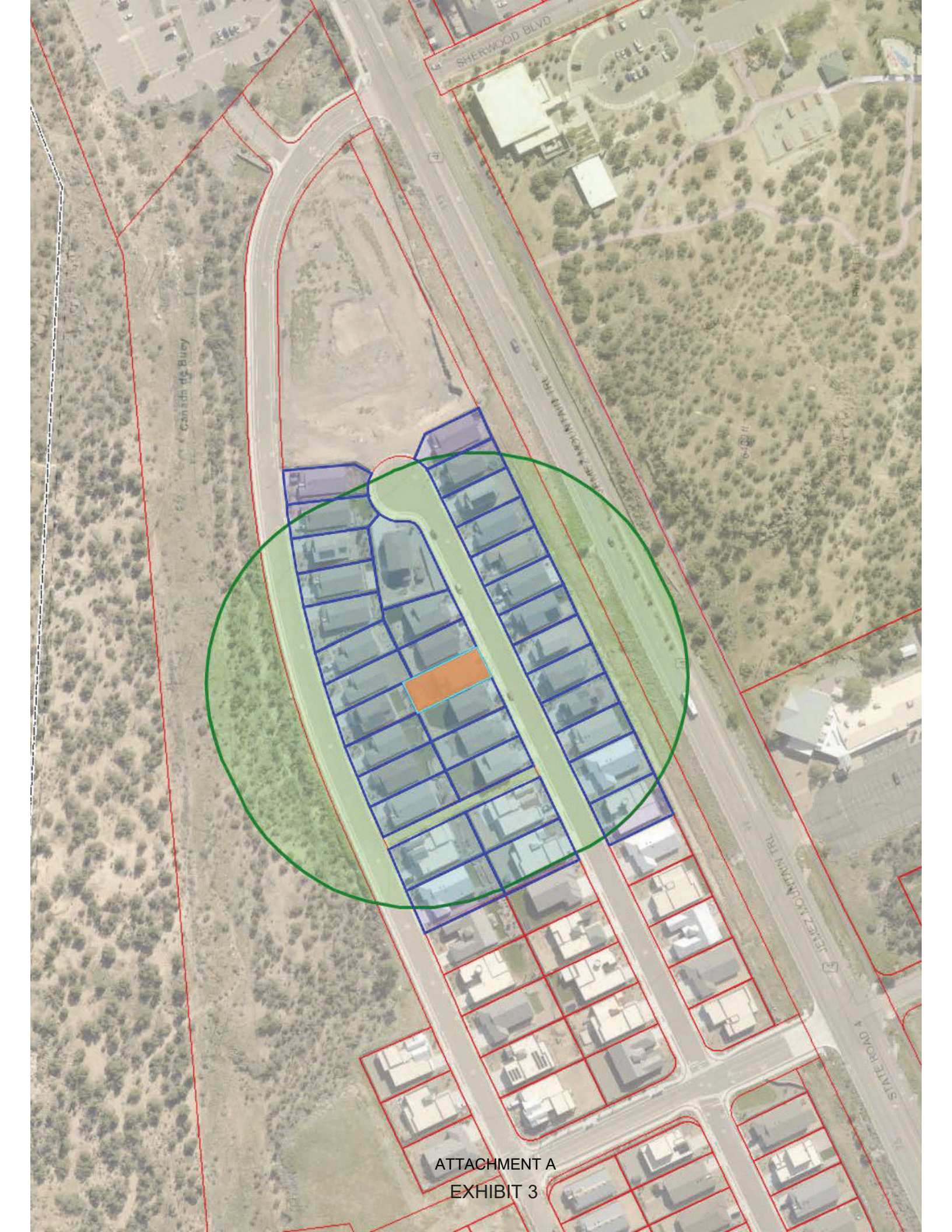
SIT-2022-0059. 2202 Trinity Dr. Same issues. Access needs to be addressed with the 20 feet width. I have not seen drawings with hydrants – FDC access. It appeared to be 4 stories and will require temporary standpipes during construction. I saw the note the "utility note" is incomplete. Fire protection drawings incomplete as well. Will need reference of IFC 2021, sprinkler information, alarm information, etc.

VAR-2023-0000. Confianza St. There are no problems with access, and I don't believe LAFD will have any other comments.

-- end --

PROPERTY OWNERS WITHIN 300'

OWNER NAME	MAILING ADDRESS	CITY/STATE/ZIP
HIJAZI HASSAM L & HASSAOUI MELISSA	120 MIRADOR BLVD	LOS ALAMOS, NM, 87547
JONES SANDRA K & FREDRICK G	90 CONFianza ST	LOS ALAMOS, NM, 87547
TSIAGKOURIS JAMES A & LOUISE T C REVOC LIVING TRUST	118 MIRADOR BLVD	LOS ALAMOS, NM, 87547
STOICA ALEXANDRU & KRISZTINA	92 CONFianza ST	LOS ALAMOS, NM, 87547
MOORE CAMERON M & TANYA M	91 CONFianza ST	LOS ALAMOS, NM, 87547
LERMA MANUEL & DENISSE	116 MIRADOR BLVD	LOS ALAMOS, NM, 87547
CHAPMAN CLINTON	114 MIRADOR BLVD	LOS ALAMOS, NM, 87547
CARNEY PATRICIA M & GARCIA ANTONIO R	93 CONFianza ST	LOS ALAMOS, NM, 87547
HAWKINS ADAM C & CELINE M	94 CONFianza ST	LOS ALAMOS, NM, 87547
POUDEL DEEPESH & BARAL RAMILA	112 MIRADOR BLVD	LOS ALAMOS, NM, 87547
JOSEY COLIN JAMES	96 CONFianza ST	LOS ALAMOS, NM, 87547
HESELINK ADAM JAMES & MEGAN LEE	95 CONFianza ST	LOS ALAMOS, NM, 87547
LIVESCU DANIEL	110 MIRADOR BLVD	LOS ALAMOS, NM, 87547
BENNETT KEVIN	98 CONFianza ST	LOS ALAMOS, NM, 87547
ESQUER GONZALEZ CESAR R	97 CONFianza ST	LOS ALAMOS, NM, 87547
FARROW JAMIE	108 MIRADOR BLVD	LOS ALAMOS, NM, 87547
QUALICK ROBERT	100 CONFianza ST	LOS ALAMOS, NM, 87547
POULTON RONALD J & ILSE	99 CONFianza ST	LOS ALAMOS, NM, 87547
GADDIS RICHARD L & KATHIE R	102 CONFianza ST	LOS ALAMOS, NM, 87547
RAEL JUAN P & GINA M ABEYTA	106 MIRADOR BLVD	LOS ALAMOS, NM, 87547
MOMODU GLORY	101 CONFianza ST	LOS ALAMOS, NM, 87547
HOPWOOD KACY CHEYENNE & GREGORY	104 CONFianza ST	LOS ALAMOS, NM, 87547
EKBLAD HANNAH R	104 MIRADOR BLVD	LOS ALAMOS, NM, 87547
WOOD HANNAH	103 CONFianza ST	LOS ALAMOS, NM, 87547
MARQUEZ JAMES & ANNIE VALENCIA	105 CONFianza ST	LOS ALAMOS, NM, 87547
KUMAR ANAND	102 MIRADOR BLVD	LOS ALAMOS, NM, 87547
VANDENBUSCH TANYA M & VALDEZ CARLOS	106 CONFianza ST	LOS ALAMOS, NM, 87547
NADEAU DENIS	107 CONFianza ST	LOS ALAMOS, NM, 87547
MORTENSEN CASEY J	100 MIRADOR BLVD	LOS ALAMOS, NM, 87547
DORHOUDT JACQUELYN MARIE	109 CONFianza ST	LOS ALAMOS, NM, 87547
OLIVE DANIEL THOMAS & JENNIFER ANN	98 MIRADOR BLVD	LOS ALAMOS, NM, 87547
DHAUBHADEL SAYERA	111 CONFianza ST	LOS ALAMOS, NM, 87547
WADE HEATH W & APRIL N	100 CONFianza ST	LOS ALAMOS, NM, 87547
GOLLAPINNI SOWJANYA & GUNTHOTTI KRANTI	113 CONFianza ST	LOS ALAMOS, NM, 87547
GOMEZ ANDRES & LOYA GLADYS	115 CONFianza ST	LOS ALAMOS, NM, 87547



ATTACHMENT A
EXHIBIT 3

LEGAL NOTICE

Community Development
Department

Notice is hereby given that the Planning and Zoning Commission of the Incorporated County of Los Alamos, State of New Mexico, has directed publication of their scheduled meeting to be held on Wednesday, September 13, 2023, beginning at 5:30 PM, within the Council Chambers located at 1000 Central Ave, Los Alamos, NM 87544. Members of the public may, also, join to make public comment by pasting into their browser the following URL:

<https://us06web.zoom.us/j/81885706651>

Or by phone: (US) +1 719 359 4580 or +1 253 205 0468 or +1 253 215 8782

Webinar ID: 818 8570 6651

A copy of the complete Agenda is available at least 72-hours prior for public inspection during regular business hours of 8 am-5 pm, within the Community Development Department at 1000 Central Ave, Suite 150, or online at <https://losalamos.legistar.com/Calendar.aspx>.

1. CASE NO. VAR-2023-0000. Robert Qualick, Property Owner/Applicant, is requesting a variance from the Development Code, Use Specific Standards, to construct a 192-square foot accessory structure less than 5-feet from rear and side property lines at 100 Confianza St., White Rock, NM. The property, MIR05022, is within the Mirador Subdivision and is zoned White Rock Town Center (WRTC) zone district.

Case Manager: Desirae J. Lujan, Associate Planner

2. CASE NO. SIT-2023-0064. Dekker/Perich/Sabatini, on behalf of Transcor Development Inc., property owner, is requesting Site Plan approval for a mixed-use development named Cañada Bonita, a 60,559-square foot mixed-use development that proposes 160 residential units and 6,159 square feet of commercial space. The properties, EA3 Q1 and EA3 Q2, are respectively addressed as 2100 and 2202 Canyon Road, Los Alamos, NM, and are within the Mixed-Use (MU) zoning district.

Case Manager: Jane Mathews, Senior Planner

/S/ Paul Andrus

Community Development Director

"If you are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Human Resources Department at (505)662-8040 at least one-week prior to the meeting, or as soon as possible. Public documents, including the Agenda and Minutes, can be provided in various accessible formats. Please contact the personnel in the County Administrator's Office at (505) 662-8080 if a summary or other type of accessible format is needed."

PUBLISHED IN THE LOS ALAMOS DAILY POST
THURSDAY, AUGUST 24, 2023

NOTICE OF
PROPOSED LAND USE
ACTION

CASE #: **VAR-2023-0000**

REQUESTED ACTION:
VARIANCE by zone

STREET ADDRESS:
100 CONFianza ST.

PUBLIC HEARING PLACE, DATE, AND TIME:
MUNICIPAL BLDG.

COUNCIL CHAMBERS

1000 CENTRAL AVE

FOR MORE INFORMATION, CONTACT THE LOS
ALAMOS COUNTY COMMUNITY DEVELOPMENT
DEPARTMENT TEL. 505-662-8055 EMAIL
PLANNING@LACM.US

Sec. 16-1. - Zoning.

The purpose and authority to regulate the use of land shall be as follows:

- (a) Promote and provide for the health, safety, and welfare of the county;
- (b) Facilitate orderly growth and development of the county consistent with the goals, concepts, strategies, and policies of the comprehensive plan or amendments thereto;
- (c) Provide for harmonious development in the county; minimize congestion in the streets and public ways; secure safety from fire, panic, and other dangers; avoid undue concentration of population; and prevent the overcrowding of lands;
- (d) Facilitate adequate provision for streets, transportation, utilities, schools, parks, and other public requirements;
- (e) Conserve the value of buildings and land pursuant to NMSA 1978, § 3-21-5.B, and to encourage the most appropriate use of land throughout the county;
- (f) Divide the county into zone districts according to the use of land and structures and the intensity of such use and provide for the appropriate regulation of land use within those districts;
- (g) Guide the location and use of structures and land for commercial, industrial, public, and residential uses where they are, or can be made to be, compatible with neighboring land uses;
- (h) Preserve the natural beauty, vegetation, and topography, and prevent the pollution of air, water, and the general environment;
- (i) Ensure adequate drainage and availability of utility resources and facilities;
- (j) Control and abate the unsightly use of buildings or land;
- (k) Provide flexible regulations which encourage compatible, creative and efficient uses of land;
- (l) Provide for the administration and enforcement of this chapter; and
- (m) Provide service to applicants and property owners in understanding and working with the provisions and procedures of this chapter.