

**Village of Angel Fire
3388 Mountain View Blvd.
PO Box 610
Angel Fire NM 87710
(575) 377-1389**

**Public Notice
Planning and Zoning Commission
Regular Meeting Agenda
November 7, 2013 at 5:00PM Village Hall Meeting Room**

- I. Call to Order**
- II. Pledge of Allegiance**
- III. Roll Call**
- IV. Approval of Agenda**
- V. Approval of Minutes**
 - A. Minutes of the October 3, 2013 Regular Meeting**
- VI. Requests and Responses from the Audience**
- VII. Announcements and Proclamations (Limit to 3 minutes)**
- VIII. New Business**
 - A. VAR-02-13 Drake**
- IX. Adjournment**

Next Planning & Zoning Meeting will be: Thursday, December 5, 2013

The Public is welcome and Invited to Attend

Terry Cordova, Village Clerk
Post: 10-31-13

Barbara Cottam, Mayor

**AGENDA MAY BE PICKED UP AT VILLAGE HALL
3388 MOUNTAIN VIEW BLVD, ANGEL FIRE NM 87710
AGENDA MAY ALSO BE VIEWED AT OUR WEBSITE: www.angelfirenm.gov.
IF YOU ARE AN INDIVIDUAL WHO IS IN NEED OF ANY AUXILLARY AID OR SERVICE TO
ATTEND THE MEETING, PLEASE CONTACT THE VILLAGE CLERKS OFFICE 48 HOURS PRIOR TO
THE MEETING**

**VILLAGE OF ANGEL FIRE
PLANNING AND ZONING COMMISSION
REGULAR MEETING
October 3, 2013**

I. CALL TO ORDER

Chairman Stille called the meeting to order at 5:00 PM.

II. PLEDGE OF ALLEGIANCE

Chairman Stille called for the flag salute.

III. ROLL CALL

Present were Chairman Stille, Vice Chairman Davis, Commissioner Larson, Commissioner Lanon, Commissioner Lindsey, Commissioner May, Commissioner Orndorff and Commissioner Guenther (arrived after role).

IV. APPROVAL OF AGENDA

Commissioner Lanon made a motion to approve the Agenda for the October 3, 2013 Regular Meeting. Commissioner May seconded the motion. Motion passed.

V APPROVAL OF MINUTES

A. Minutes of the May 2, 2013 Regular Meeting

Vice Chairman Davis made a motion to approve the minutes from the May 2, 2013 Regular Meeting. Commissioner Lanon seconded the motion. Motion passed.

VI. REQUESTS AND RESPONSES FROM THE AUDIENCE

None

VII. ANNOUNCEMENTS AND PROCLAMATIONS

None

VIII. NEW BUSINESS

A. Z-02-13 R-3 to R-4

Commissioner Lanon made a motion to approve Z-02-13 from R-3 to R-4; Commissioner Lindsey seconded the motion. Bill Bishop was present to represent the new owners Mr. and Mrs. Cloninger as he is out of the country and she is recovering from surgery. Vice Chairman Davis asked what the Cloninger's own for property besides this Lot 191. Mr. Bishop explained they own Tract A where they located the barn and guest house. Their home is across the street from the barn. He also explained they will fence in the horses, of which there are five or six. There was only one call from the notification area which was for clarification on the zone in place and if it meant no condos in the backyard the owner was for the change. Motion approved.

B. CUP 02-13 Cell Tower

Commissioner Lanon made a motion to approve CUP 02-13 Cell Tower; Commissioner Orndorff seconded the motion. Chairman Stille asked for some highlights of Director Rivera's memo to be read to the Commission since the Director was not able to attend. See attached Memo to P & Z from Mark Rivera. Joe Fanara from Commnet Wireless was present to speak as the applicant. See attached memorandum. Also, all cell phone providers will show improvement in services in the valley area. There are no odors/fumes, sounds or combustibles created by a cell tower and all of the radio cabinets are self-contained. Chairman Stille asked about the construction time frame. Mr. Fanara explained that building would not begin until next spring and should be completed in four to six weeks. Also he noted that Commnet would be bringing power to this site as it is not currently to the site. This is something the Village needs at the site so that the water tanks could be outfitted with electronic monitors. There would be a one to three day

1 traffic disruption while the equipment is delivered to the site, but not constant deliveries
2 over the four to six weeks of construction time. Commissioner Larson asked how this
3 differs from the tower atop the mountain. Mr. Fanara stated this was a smaller foot print
4 of twenty feet by twenty feet total space for the monopole and all the equipment. The
5 tower on the mountain is a three or four footed tower with guide wires. The FAA does
6 not require this tower to be lighted in any way. Commissioner Davis asked about other
7 locations looked at. Mr. Fanara had looked at two other locations along this area, but
8 they would not have met the criteria as one was too far east and the one more to the west
9 was a residential lot. The Plateau tower was located in an area that was blocked by the
10 terrain and was therefore not considered. Commissioner Davis wanted to know what the
11 company's main objective for the tower is. Mr. Fanara said there were two objectives,
12 which are to relieve the excessive dropped calls and extend the coverage. Commissioner
13 Davis thought that most of the coverage would be going to Blacklake not the Village.
14 Mr. Fanara stated the maps are not coverage maps but Engineering propagation maps to
15 help show the best area for tower placement. Commissioner Davis thought he had read
16 Commnet was thinking about adding towers in Blacklake to which Mr. Fanara said not to
17 his knowledge. Commissioner Guenther did feel the road may need some grading work
18 for the trucks to get up, but did not see regular traffic going up and down the road. Gary
19 Alsup, an attorney from Clayton, representing Hank and Donna Tomlinson, Ken &
20 Martha Ashley, Phil and Liz Cook, Bill & Marilyn Mitschrich, Mike & Marcia Barker,
21 Steve & Kathleen Griswold(Crissman), Don and Marianne Griswold, Jack and Lynne
22 Scott, Joe and Linda Turner, and Nicholas and Claire Zengou spoke. He is here because
23 these people are working and are not living here at this time but have property in close
24 proximity to this location. These people feel a cell tower will decrease their property
25 values as well as the aesthetic value of their homes. These owners believe that it will
26 create more unauthorized traffic ATV's and site seers on the roads. To which Chairman
27 Stille stated that this is a Village easement which could be improved at any time. Mr.
28 Alsup stated it is a benefit to Blacklake whereas these people live in Angel Fire and are
29 your constituents. He believes by placing another tower next to the current one on the
30 mountain would alleviate the capacity issue. This board has the right to apply zoning
31 ordinances and grant variances if the board believes that is what should happen, and
32 would recommend to his clients not challenge that. He stated the board does not have the
33 right to change restrictive covenants in a subdivision. Chairman Stille stated that this
34 board is not governed by covenants, only Village ordinances. Covenants would be an
35 application to the Resort EAC C. Mr. Alsup stated that covenants are enforceable with
36 respect to property owners within the subdivision and it would not be the board in court
37 but the property owners and the telephone company. The courts have upheld that
38 variances against the covenants are not allowed as cited in Singeltary versus City of
39 Albuquerque 96 NM 468. The board has the right to do what they want on zoning
40 ordinances but not to affect a lot owner regarding covenants. Responsible government
41 would deny this request to build a tower. Chairman Stille reminded the Commission that
42 they do not enforce covenants and only go by the Village ordinances when making
43 decisions. Commissioner Orndorff asked Mr. Alsup if any of the people he was
44 representing were in attendance to which he stated that none that he was aware of.
45 Commissioner Orndorff also wanted to know if they were therefore only part-time
46 residents. That was Mr. Alsup's understanding. Chairman Stille noted that only one
47 person from the list was actually in the notification area. Bill Bishop was in the cell
48 tower industry prior to moving here and believes it is a necessity to bring and keep
49 bringing people to this valley. If we do not have it we will suffer economically. Jay
50 Mitchell full time resident and part-time EMT wanted to state that people on the western

1 slopes of the village do not get the benefit of the current tower, because of line of site
2 issues. We have part-time residents who would like more ability to telecommute. As the
3 Village Manager he would like electricity to the water tanks which is being offered by
4 Commnet. He also knows from emails received in support of the tower that Mr. Alsup
5 misrepresented whom he stated he was there to represent. Alan Pettersen is a resident of
6 Angel Fire and a telecommuter and would welcome the capacity improvement from this
7 tower. Michael Turri is a fulltime resident of Blacklake that works part-time at the Angel
8 Fire visitors center is frequently asked by visitors why their cell phone won't work. The
9 area is seasonal and negative feedback is not good so it will help get people to have a
10 good experience . Brinn Colenda, full time resident of Angel Fire as well as Councilor,
11 does not want a wedge driven between a subdivision and the rest of the Valley because he
12 feels everyone from Red River to Blacklake is part of this community. Everyone should
13 be able to have the ability to call for emergency services. Lisa Morales, full time resident
14 and use to manage five radio stations and believes that these towers will not be a
15 problem. Cell phones and internet access are truly needed to bring young people and
16 their families to the Valley no matter where they may live. Rogers Lanon, full time
17 resident, chamber board member and a real estate agent, believes we need more cell
18 service for everyone. He does not see any loss of value on the properties in the area of
19 the tower. Moreno Valley Fire department wanted to know if a radio repeater would be
20 allowed to which Mr. Fanara stated it would at the time of construction. Jo Mixon is a
21 full time resident across from Monte Verde Lake and does not have good service. A
22 citizen asked if the Village would receive a lease fee, which it will as stated by Mr.
23 Mitchell, but the amount is under negotiations at this time. Paula Steves lives on Acoma
24 Circle and has been coming to Angel Fire for 31 years. Her and her husband try to spend
25 as much time as possible here and would spend more time here if the technology were
26 better. She has many friends who would like to spend more time here and even move to
27 Angel Fire if cell service and internet access were better so that they could run their
28 businesses from the Valley. Sharon Harrison from Blacklake would like to speak for the
29 seasonal people who live in Blacklake. They have had times where they could not even
30 call 911 when they have had an emergency and would like too see the tower go up, as
31 well as another in Blacklake Resorts. Commissioner Davis had a mission to play devils
32 advocate in order since he lives in the Aspens and has heard from all his neighbors. He is
33 personally for the tower, but wanted to make sure that there was a conversation on the
34 pros and cons of a tower. He believes we should be a good neighbor to Blacklake and
35 this tower will benefit this community as a whole. Motion passed.

36 **IX. ADJOURN:** Chairman Stille adjourned the meeting at 6:06 PM
37 **Passed and Approved this Thursday, November 7, 2013 @ 5:00 PM.**

38
39
40
41 _____
Michael Stille, Chairman

42 ATTEST:

43
44 _____
45 Terry Cordova, Village Clerk

46
47 TRANSCRIBED:

48
49 _____
50 Christine Breault

Village of Angel Fire
P.O. Box 610
Angel Fire, New Mexico 87710
(575) 377-1389; FAX: (575) 377-3280



Memorandum

Date: 30 October 2013
To: Planning & Zoning Commission
From: Mark Rivera
Subject: VAR-02-13, A front yard setback variance request

Mr. Duane Drake, owner of lot 700, Country Club Unit 1 has submitted a request for front yard variance of ten (10) feet.

He has submitted a letter describing his hardship relative to the slope of the subject lot. Mr. Drake is also in the process of extending an existing sewer line to his property. Once completed, the extension will make sewer available to four additional properties.

We send out the notification letter to surrounding property owners. We have gotten on response from his neighbor, Mr. Charles LeBus who is in general support of the request.

I believe that Mr. Drake has addressed and met the criteria for granting a variance.

Village of Angel Fire
Variance Application

Owner Name: DUANE DRAKE
 Owner Street Address: 200 VIA DEL REY ANGEL FIRE, NM
 Owner Mailing Address: 3070 WHITE SANDS CT. HOLLOMAN AFB,
 Owner Phone: (702) 768-2499 NM 88330

Zoning District: _____
 Subdivision: Country Club Unit 1 Lot#: 700 Block: _____

Requested Variance Details:

Variance Type	Ordinance Requirements	Application Request
Lot Area		
Front Setback	<u>25' 9-10 A - 4.C.1</u>	<u>10' Variance</u>
Rear Setback		
Side Setback		
Floor Area		
Height		
Open Space		
Parking:		
Number of spaces:		
Size of spaces:		
Other:		

Reason for Variance Request: [On a separate sheet of paper, type or print the reason (s) for the variance request, and attach it to this application]

CRITERIA FOR VILLAGE COUNCIL DECISION, Section 9.3.5.C.

In considering a Variance application, the Council shall consider any recommendations of the Commission and the Director and determine whether:

- A. An exceptional situation exists whereby the strict application of this Code would result in practical difficulties or undue hardship to the owner of such property; or
- B. Such Variance will result in a public benefit to the citizens of the community; and
- C. The variance is consistent with the objectives and purposes of this Code and the applicable Zoning Districts of the Village.

Fee: \$100.00

clerk 1055
9/24/13
OSB

September 24, 2013

To: Village of Angel Fire

From: Duane Drake

3070 White Sands Ct.

Holloman AFB, NM 88330

RE: Request for 15' setback where 25' is required on lot 700 Country Club Unit 1 on Via Del Rey

Per Section 9.3.5.C, I feel that I meet the requirements of A, B & C.

(A) My hardship is that I have a very steep lot at the front. To build at the required 25' setback would require taller retaining walls and a greater amount of fill which would be seen from the road.

(B) If I receive the variance, it would allow me to use a gravity fed sewer system that would be installed at my own expense and would allow an additional 4 lots to use this system. If I am required to use the standard 25' setback I would have to raise the pad elevation to meet the required drainage for the sewer system.

(C) I feel this is in keeping with the objectives and purpose of this code section. The way the road is constructed makes it appear that I have the required set back. Keeping the house closer to the street allows less of the house to be seen coming up Via Del Rey.

Thank you for your consideration. If you have any questions please feel free to contact me by phone. (702)768-2499.

Sincerely,

Duane Drake

MAIL FUTURE TAX STATEMENTS TO:

Donna Drake and Duane Drake
163 S Hancock Trail
CASA GRANDE, AZ 85222

WHEN RECORDED MAIL TO:

RECORDED AT THE REQUEST OF:
National Recreational Properties of Angel Fire,
LLC
1 Mauchly
Irvine, CA 92618

REC DATE 06/15/07 REC TIME 02:57 PM
COLFAX COUNTY NM RAYETTA M TRUJILLO-COUNTY CLERK DOC# 29370221 *ALB*

SPECIAL WARRANTY DEED

ID: 76715

National Recreational Properties of Angel Fire, LLC, A New Mexico Limited Liability Company, for consideration paid, grants to: Donna Drake and Duane Drake, Husband and Wife as Joint Tenants whose address is, 163 S Hancock Trail, CASA GRANDE, AZ 85222, the following described real estate located in Colfax County, New Mexico, with WARRANTY COVENANTS, to wit:

Lot 700 Angel Fire Country Club Subdivision Unit #1 as shown on Plat Book 5, Page 18, Records of Colfax County, New Mexico
APN: 25210

The Grantor expressly reserves all minerals, including oil, coal, gas, metals, mineable rock products, sand, gravel, peat, and any and all other mineral rights, whether or not appearing in the public record in, on and under the above described land to the extent provided by applicable state law.

Subject to all taxes, reservations and patents, easements, rights-of-way, leases, and covenants and restrictions of record AND THE FOLLOWING RESTRICTIONS THAT RUN WITH THE LAND AND WHICH ARE BINDING ON ALL ASSIGNS:

Any combination of adjacent or adjoining lots shall not operate to relieve, discharge, or release the property owner from annual membership dues and assessments to the Association of Angel Fire Property Owners and/or Angel Fire Resort Operations, LLC., for each and every lot platted. Each lot, regardless of combination, shall be required to pay the full annual membership assessments pursuant to the Amended Joint Plan of Reorganization (Case No. 11-83-12176 RA), filed on 9-27-95, in Book 6, Page 8754 of the Colfax County Records, including its supporting exhibits - Supplemental Declaration of Restrictive Covenants and Easements and Articles of Incorporation and Bylaws of the Association of Angel Fire Property Owners, Inc., (hereinafter referred to as the "Plan"). The annual payment of membership dues and assessments as defined and set forth in the Plan shall be enforceable through liens and/or through the Courts of the State of New Mexico.

WITNESS its hand and seal this 8 day of June, 2007.

National Recreational Properties of Angel Fire, LLC
A New Mexico Limited Liability Company

STATE OF CALIFORNIA)

By: [Signature]

COUNTY OF ORANGE)
SS)

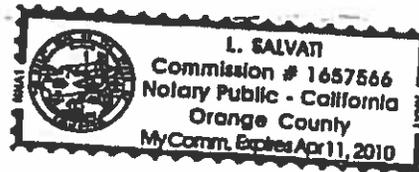
Its: Theresa Ibarra
Vice President, Post Sales Operations

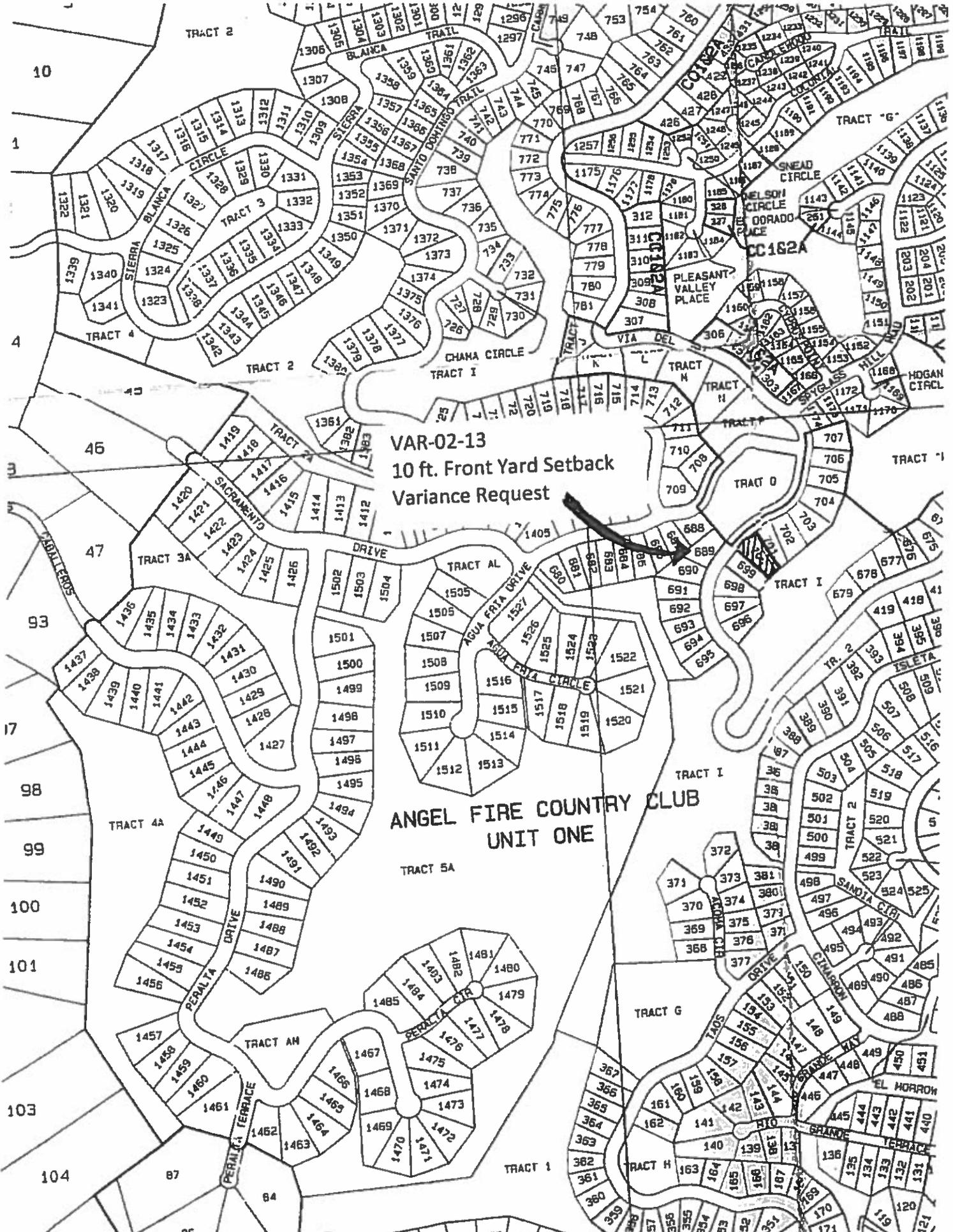
ON 10/8/07, BEFORE ME, L. Salvati, NOTARY PUBLIC,
PERSONALLY APPEARED Theresa Ibarra

[X] PERSONALLY KNOWN TO ME - OR - [] PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME, THAT HE/SHE/IT/ THEY EXECUTED THE SAME IN HIS/HER/ THEIR AUTHORIZED CAPACITY(IES) AND THAT BY HIS/HER/ THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.
WITNESS MY HAND AND OFFICIAL SEAL

Name: L. Salvati

My Commission Expires: April 11, 2010





VAR-02-13
10 ft. Front Yard Setback
Variance Request

ANGEL FIRE COUNTRY CLUB
UNIT ONE

CC162A

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